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INABILITY OF THE U.S. CUSTOMS SERVICE TO ACCOUNT FOR ITS FIREARMS

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HEARING BEFORE THE SUBCOMMITTEE ON OVERSIGHT OF THE COMMITTEE ON WAYS AND MEANS HOUSE OF REPRESENTATIVES ONE HUNDRED THIRD CONGRESS

FIRST SESSION

FEBRUARY 23, 1993

Serial 103-40

Printed for the use of the Committee on Ways and Means



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INABILITY OF THE U.S. CUSTOMS SERVICE TO ACCOUNT FOR ITS FIREARMS

TUESDAY, FEBRUARY 23, 1993

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
SUBCOMMITTEE ON OVERSIGHT,
Washington, D.C.

The subcommittee met, pursuant to notice, at 2:16 p.m., in room 1100, Longworth House Office Building, Hon. J.J. Pickle (chairman of the subcommittee) presiding.

[The press release announcing the hearing follows:]

FOR IMMEDIATE RELEASE
FRIDAY, FEBRUARY 19, 1993

PRESS RELEASE #3
SUBCOMMITTEE ON OVERSIGHT
COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES
1135 LONGWORTH HOUSE OFFICE BLDG.
WASHINGTON, D.C. 20515
TELEPHONE: (202) 225-5522

THE HONORABLE J. J. PICKLE (D., TEXAS), CHAIRMAN,
SUBCOMMITTEE ON OVERSIGHT, COMMITTEE ON WAYS AND MEANS,
U.S. HOUSE OF REPRESENTATIVES,
ANNOUNCES A HEARING ON THE INABILITY OF THE U.S. CUSTOMS SERVICE
TO ACCOUNT FOR ITS FIREARMS

The Honorable J. J. Pickle (D., Texas), Chairman of the Subcommittee on Oversight, Committee on Ways and Means, U.S. House of Representatives, announced today that the Subcommittee will conduct a hearing on the failure of the U.S. Customs Service (Customs) to correct long-standing problems in accounting for its firearms.

The hearing has been scheduled for Tuesday, February 23, 1993, beginning at 2:00 p.m., in the main Committee hearing room, 1100 Longworth House Office Building. The Subcommittee will receive testimony from the U.S. Department of the Treasury's Inspector General (Treasury IG), a former employee of Customs' National Firearms Program staff, and a representative of Customs.

Customs maintains an inventory of more than 20,000 firearms for use by its 3,000 special agents, 7,000 inspectors, and various managers. The inventory is made up of purchased firearms, forfeited firearms, firearms transferred from other agencies, and firearms abandoned by importers.

In May 1991, the Subcommittee initiated an investigation into allegations of lost and stolen firearms at Customs. These same allegations had been made to Customs managers, the Customs Office of Internal Affairs, the Office of Special Counsel, and the Treasury IG, starting as early as 1984. The Subcommittee confirmed a number of the allegations and, more importantly, determined that the Customs managers had been ignoring the problem for years.

During the early stages of the Subcommittee's investigation, the Treasury IG initiated an audit of the Customs Firearms Program. By agreement with the Treasury IG and senior Customs managers, the Subcommittee suspended its investigation pending the outcome of the Treasury IG's audit. The Treasury IG's audit report was recently completed and submitted to the Subcommittee and Customs.

The Treasury IG reports that Customs' accountability over firearms is ineffective and, as a result, increases the potential for undetected theft, loss, or unauthorized diversion of firearms. The IG identified missing firearms; firearms in the possession of former Customs employees; and firearms listed as in active use which, in fact, had been destroyed.

In announcing the hearing, Chairman Pickle stated: "We were not surprised to discover that the Treasury IG's audit found the Customs Firearms Program in shambles. I agree with the Treasury IG that proper firearm accountability is necessary to prevent the loss, undetected theft, and diversion of firearms. Lost, stolen, or improperly diverted firearms could cause embarrassment to Customs if subsequently used in the commission of a crime.

"A whistleblower came to the Subcommittee in early 1991 documenting a number of problems with the Customs Firearms Program, including several lost or stolen Customs firearms which no one seemed to care about.

(MORE)

"In one case, the whistleblower documented nine firearms which disappeared in 1983. The documentation shows that the firearms were in the possession of a former Assistant Commissioner of Internal Affairs. He returned them six days after the Subcommittee requested specific information from Customs regarding those firearms. The firearms had been unaccounted for for eight years. The Treasury IG identified additional instances where firearms were taken by separated and retired Customs employees.

"The Customs employee who blew the whistle on problems with the firearms program spent years trying to get Customs management to correct the problems before coming to the Subcommittee. Instead of correcting the problems, Customs managers fired the whistleblower. Moreover, when the Subcommittee made its first formal request for information regarding the firearms program in May 1991, Customs claimed that the program had undergone extensive review by Customs' Office of Internal Affairs and the Treasury IG and that there was no indication of major problems.

"This attitude cannot be tolerated. Recent reforms initiated by former Customs Commissioner Hallett were aimed at correcting this attitude. However, it is unclear that those efforts have been effective in improving Customs' management of firearms. It is imperative that Customs learns to accept its problems and deal with them directly and forthrightly."

DETAILS FOR SUBMISSION OF WRITTEN COMMENTS:

Persons submitting written comments for the printed record of the hearing should submit at least six (6) copies by the close of business, Thursday, March 11, 1993, to Janice Mays, Chief Counsel and Staff Director, Committee on Ways and Means, U.S. House of Representatives, 1102 Longworth House Office Building, Washington, D.C. 20515. If those filing written statements wish to have their statements distributed to the press and interested public, they may deliver 200 additional copies for this purpose to the Subcommittee office, 1135 Longworth House Office Building, on the evening before the hearing.

FORMATTING REQUIREMENTS:

Each statement presented for printing to the Committee by a witness, any written statement or exhibit submitted for the printed record or any written comments in response to a request for written comments must conform to the guidelines listed below. Any statement or exhibit not in compliance with these guidelines will not be printed, but will be maintained in the Committee files for review and use by the Committee.

1. All statements and any accompanying exhibits for printing must be typed in single space on legal-size paper and may not exceed a total of 10 pages
2. Copies of whole documents submitted as exhibit material will not be accepted for printing. Instead, exhibit material should be referenced and quoted or paraphrased. All exhibit material not meeting these specifications will be maintained in the Committee files for review and use by the Committee.
3. Statements must contain the name and capacity in which the witness will appear or, for written comments, the name and capacity of the person submitting the statement, as well as any clients or persons, or any organization for whom the witness appears or for whom the statement is submitted.
4. A supplemental sheet must accompany each statement listing the name, full address, a telephone number where the witness or the designated representative may be reached and a topical outline or summary of the comments and recommendations in the full statement. This supplemental sheet will not be included in the printed record.

The above restrictions and limitations apply only to material being submitted for printing. Statements and exhibits or supplementary material submitted solely for distribution to the Members, the press and the public during the course of a public hearing may be submitted in other forms.

* * * * *

Chairman PICKLE. We will ask the subcommittee to please come to order.

For the information of our witnesses and for the members as well, there is a bill on the floor that is anticipated on the suspension calendar to be voted on within the next 10 to 20 minutes. We will proceed as best we can. We may have to have a break as we go forward. But with anticipating that, maybe we can do it without as much interruption as possible.

Today the subcommittee will examine firearms accountability at the U.S. Customs Service. We will hear from the Treasury inspector general, which has just completed an audit of the U.S. Customs Service Firearms Program. We will also hear from Mark Humphreville, the Customs employee who first brought this issue to the attention of the subcommittee. Finally, we will hear from the U.S. Customs Service.

According to the Treasury IG's recent audit, Customs' accountability over its firearms is ineffective and, as a result, increases the potential for undetected theft, loss, or unauthorized diversion of firearms. The Treasury IG estimated that there are approximately 50 weapons currently listed on Customs firearms inventory which are, in fact, missing. Moreover, the subcommittee believes there are numerous additional missing firearms, particularly seized firearms, which just never made it into the Customs firearms inventory. In addition, the IG and the subcommittee have identified pistols in the possession of former Customs employees which, parenthetically, were returned only after the IG and the subcommittee began to ask questions about their whereabouts, and firearms listed as actively in use, which, in fact, have been destroyed. Further, seized ammunition has been used for personal use. Firearms records can be manipulated without authorization, and numerous firearms are recorded under fictitious Social Security numbers.

This situation is intolerable. As a Federal law enforcement agency, the U.S. Customs Service must maintain the highest standards. Customs cannot allow its employees to seize goods, whether firearms or other property, as their own personal booty. Customs should not put up with any "monkey business" with its firearms program. It is the principle of the matter, the integrity of the system, and the credibility of Customs employees that really are at issue today.

Firearms in Customs' possession which are not properly documented are not traceable. The fact that Customs employees have untraceable "off inventory" firearms in their possession raised the possibility of all sorts of scenarios which could seriously embarrass Customs. Something needs to be done now before it is too late.

I am not sure that any part of the Customs Firearms Accountability Program would have ever come to light if Mr. Humphreville had not blown the whistle. Apparently, Mr. Humphreville got fired for his efforts. On the other hand, Mr. Humphreville's former boss has been promoted and rewarded for his skill at covering up the problems.

After its initial review of Mr. Humphreville's allegations, the subcommittee formally requested background information from Customs. In its response to the subcommittee in 1991, Customs reported that its firearms program had been thoroughly reviewed and

that there were no serious problems. In other words, the subcommittee was just "playing cops and robbers with toy pistols."

Now we all know differently. Today's hearing will demonstrate why it is imperative that Customs learns to accept its problems and deal with them directly and expeditiously rather than conveniently arguing that missing guns have been filed away in their safes.

Chairman PICKLE. Now the chair recognizes Mr. Houghton.

Mr. Houghton.

Mr. HOUGHTON. Thank you, Mr. Chairman.

Mr. Weinstein, Mr. Schindel, good to see you.

I appreciate, Mr. Chairman, your calling this meeting. It is an ongoing investigation of the U.S. Customs Service management, and today we will focus on the issues that the chairman has mentioned already.

I was really surprised to learn about a couple of things. First of all, I was surprised that there was such a huge inventory of weapons in the Customs Service. It sounds rather large, as far as I am concerned. Why is it? What is happening with it? Why does it have to be that way?

The other thing is, in terms of making Government more efficient, the fact that Customs was ignoring the accusations of a particular individual and going on about its own business. It does not really seem to be too responsible. Really, it has to do with an attitude problem. We would like to find out more about it. I think it is a good cause to have this meeting.

I appreciate your having it, and that is the end of my statement.

Chairman PICKLE. Do any other members have an opening statement to make?

Mr. Brewster.

Mr. Hancock.

Others?

[No response.]

Chairman PICKLE. In accordance with the new policy of the subcommittee, particularly when we are dealing with investigative matters, we will ask that all witnesses to be sworn in.

I would ask the witnesses at the table—first is Mr. Weinstein, who is the Assistant Inspector General for Audit, representing the U.S. Department of the Treasury, and Mr. Dennis Schindel, Deputy Assistant Inspector General for Audit Operations—gentlemen, please raise your right hands and repeat after me.

[Witnesses sworn.]

Chairman PICKLE. Now the first witness, then, will be Mr. Jay Weinstein, who represents the Treasury, and I suppose you will be representing, in a sense, the inspector general's report.

Mr. WEINSTEIN. That is correct.

Chairman PICKLE. And then we will follow with your testimony, Mr. Schindel.

All right, Mr. Weinstein.

TESTIMONY OF JAY WEINSTEIN, ASSISTANT INSPECTOR GENERAL FOR AUDIT, OFFICE OF THE INSPECTOR GENERAL, U.S. DEPARTMENT OF THE TREASURY, ACCOMPANIED BY DENNIS S. SCHINDEL, DEPUTY ASSISTANT INSPECTOR GENERAL FOR AUDIT OPERATIONS

Mr. WEINSTEIN. Thank you. Good afternoon, Mr. Chairman and members of the committee.

My name is Jay Weinstein, the Assistant Inspector General for Audit at the U.S. Department of Treasury. With me today is Mr. Dennis Schindel, Deputy Assistant Inspector General for Audit Operations.

We are here at your invitation to discuss our audit of firearms accountability at the U.S. Customs Service and how the findings of this audit are reflective of problems which have impacted Customs operations. For the sake of brevity, I have summarized my formal statement which, with your permission, I would like to submit for the record.

Chairman PICKLE. Without objection, it will be made a part of the record.

Mr. WEINSTEIN. The need to control and properly account for its firearms is an essential Customs management function. The loss, theft, or improper diversion of firearms could cause embarrassment to Customs if the firearms were subsequently used in the commission of a crime.

The National Firearms Program Staff, hereafter referred to as NFPS, is located in Fort Benning, Ga., and is responsible for accounting for all firearms. The Director reports to the Assistant Commissioner for Enforcement.

In the very early stages of our audit, your committee provided us with results from its work performed, which was extremely valuable in helping us focus on those areas where significant problems existed. Our audit results showed that Customs' Firearms Accountability Program is unable to provide proper accountability over its firearms and needs significant improvement.

At the heart of the problem is the failure of managers and employees in the field and at NFPS to carry out their responsibilities to account for and control firearms, and an outdated computerized inventory system. Our audit brought to management's attention missing firearms, firearms in the possession of retired employees, and records showing firearms that were assigned to employees that were actually destroyed years earlier.

For example, we found three instances where firearms were taken by retirees when they separated from Customs back in 1989 and 1990. Customs recovered these firearms when we brought this to their attention. The whereabouts of four other weapons we identified as missing have still not been determined. A fifth missing weapon, which the committee identified in material they had turned over to us, has also not been found.

Based on a statistical sample we took during our audit, as many as 47 firearms may be missing from the Customs' firearms inventory.

Because firearms are assigned to employees worldwide, it is especially important that employees at all levels implement Customs'

firearms policies and procedures. We found that this was not always happening.

For instance, we found that field offices were not providing the NFPS complete, accurate, and timely information on the location and assignment of firearms. We identified five offices that had certified the firearms assigned to them had been physically verified.

Based on the results of our review, these certifications were questionable. For example, some firearms certified as being physically verified had been destroyed, were missing, or were no longer assigned to that office. The three firearms that were taken by employees when they retired had been certified as physically verified for at least one annual inventory after the retirees had left the Customs Service.

We also identified 324 firearms that were incorrectly recorded in the computerized inventory system as currently assigned to employees who are no longer with Customs. While all but three of these firearms were accounted for, the majority of erroneous records resulted from the failure of field offices to timely report the reassignment of the firearms.

Our audit found that NFPS, the centralized firearms control function, was not effectively ensuring the accuracy of the information entered into the automated firearms system. NFPS was also not effectively following up on problems with timely or accurate submissions of annual inventory certifications by the field offices.

To compound the problem, the computerized system used by Customs, called WICS, is outdated and ineffective. It was never designed to serve as a centralized data base to control and account for firearms. As configured, WICS does not have the capability to produce useful management information reports. In short, the system cannot provide Customs the degree of control and accountability it needs over firearms.

These problems exist because Customs management at all levels had not devoted the proper attention to firearms accountability. Management needs to provide more oversight to ensure its procedures are implemented. Management also needs to correct system and program weaknesses by providing more accurate and timely inventory information and provide the kinds of management information that will alert them to potential problems before they become serious.

Our findings and conclusions led us to make a number of recommendations to Customs regarding the firearms program. Customs has agreed with all the findings and all the recommendations and expressed its desire to fix the problems we identified in the Firearms Accountability Program. We are very encouraged by the meetings we have had with the Customs Service on this matter and the response we received to our report.

Although our firearms report focuses on only one specific program of Customs, we believe that the results are reflective of the kinds of management issues which impacted other Customs' operations in the past. These issues have been reported over the last several years by our office, the General Accounting Office, the Customs Service Blue Ribbon Panel, and the committee. This substantial body of work was summarized by GAO before this committee on February 3, 1993, in its testimony on Government high-risk

areas. GAO's testimony included the following problems relating to the Customs Service:

Absence of reliable information and data integrity; lack of an effective strategic management process capable of guiding its operations and establishing accountability for performance; and deficient information systems.

Mr. Chairman, I believe that the problems identified in our fire-arms report is a microcosm of the problems previously reported and summarized in GAO's testimony.

Over the past year, the Customs Service appears to have either taken or initiated action to correct these management problems. In response to our report on the Southwest Region, the finding of the Blue Ribbon Panel and the efforts of this committee, Customs has established an Office of Organizational Effectiveness to monitor implementation of management reforms, instituted line authority from the Assistant Commissioner for Enforcement to Special Agent offices in the field, and developed new performance standards.

In addition, in response to GAO's general management review, Customs has established task forces to formulate and implement effective solutions to its management problems.

Mr. Chairman, I would like to stress that the operative word for all of these actions is "appears." I say this because the OIG has not verified that Customs' actions have been fully implemented or assessed their effectiveness. Continued oversight of these efforts by Customs management, the OIG, and your committee is needed to ensure that the actions are effective. To this end, the OIG intends to perform a followup audit this year that will evaluate the effectiveness of the Customs actions I just mentioned.

In addition, our future audit work at Customs will stress in each of our audits whether Customs effectively implemented its promised corrective actions.

Mr. Chairman, committee members, this concludes my remarks. I will be happy to answer any questions that you may have.

[The prepared statement follows:]

STATEMENT OF MR. JAY WEINSTEIN
ASSISTANT INSPECTOR GENERAL FOR AUDIT
OFFICE OF THE INSPECTOR GENERAL

DEPARTMENT OF THE TREASURY

GOOD AFTERNOON MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE. WE APPRECIATE THE OPPORTUNITY TO TESTIFY BEFORE THE SUBCOMMITTEE ON OUR AUDIT OF FIREARMS ACCOUNTABILITY AT THE U.S. CUSTOMS SERVICE. MY NAME IS JAY WEINSTEIN, THE ASSISTANT INSPECTOR GENERAL FOR AUDIT AT THE U.S. DEPARTMENT OF TREASURY. ACCOMPANYING ME TODAY IS MR. DENNIS SCHINDEL, DEPUTY ASSISTANT INSPECTOR GENERAL FOR AUDIT OPERATIONS.

WE ARE HERE AT YOUR INVITATION TO DISCUSS OUR FINDINGS AND OBSERVATIONS REGARDING CUSTOMS' ABILITY TO PROPERLY AND EFFECTIVELY ACCOUNT FOR FIREARMS, AND HOW THE FINDINGS OF OUR AUDIT ARE REFLECTIVE OF PROBLEMS WHICH HAVE IMPACTED CUSTOMS OPERATIONS.

CUSTOMS ORGANIZATION AND MISSION

CUSTOMS' MISSIONS HAS EVOLVED OVER TIME IN RESPONSE TO THE INCREASING IMPORTANCE OF TRADE TO OUR ECONOMY AND THE CHANGING VIEWS ON THE EXTENT TO WHICH THE FLOW OF IMPORTS, CONTRABAND AND NARCOTICS INTO THE COUNTRY SHOULD BE CONTROLLED. CONSEQUENTLY, THE TRADE ENFORCEMENT MISSION HAS GROWN INCREASINGLY MORE CHALLENGING OVER THE YEARS AS THE VOLUME OF IMPORTS AND SMUGGLING HAS INCREASED SIGNIFICANTLY.

THE INHERENT DANGERS SURROUNDING CUSTOMS' ROLE IN ENFORCEMENT, PARTICULARLY IN NARCOTICS SMUGGLING, REQUIRES CUSTOMS AGENTS TO CARRY FIREARMS FOR PERSONAL PROTECTION. ACCORDINGLY, THE NEED TO CONTROL AND PROPERLY ACCOUNT FOR ITS FIREARMS IS AN ESSENTIAL MANAGEMENT FUNCTION. THIS IS IMPORTANT BECAUSE THE LOSS, THEFT, OR IMPROPER DIVERSION OF FIREARMS COULD CAUSE EMBARRASSMENT TO CUSTOMS IF THESE FIREARMS WERE SUBSEQUENTLY USED IN THE COMMISSION OF A CRIME.

CUSTOMS HAS MORE THAN 20,000 FULL AND PART-TIME EMPLOYEES, OF WHICH APPROXIMATELY 9,000 ARE AUTHORIZED TO CARRY FIREARMS. THESE EMPLOYEES ARE LOCATED THROUGHOUT THE WORLD IN CUSTOMS WASHINGTON HEADQUARTERS OFFICES, 7 REGIONS, 44 DISTRICTS, APPROXIMATELY 300 PORTS OF ENTRY, AND 17 OVERSEAS LOCATIONS. THE FIREARMS IN CUSTOMS INVENTORY INCLUDE HANDGUNS, RIFLES, SHOTGUNS AND OTHER SPECIAL CLASS WEAPONS.

THE NATIONAL FIREARMS PROGRAM STAFF-- HEREAFTER REFERRED TO AS NFPS-- IS LOCATED IN FORT BENNING, GEORGIA, AND IS RESPONSIBLE FOR ACCOUNTING FOR ALL FIREARMS. THE DIRECTOR REPORTS TO THE ASSISTANT COMMISSIONER FOR ENFORCEMENT. FIREARMS ACCOUNTABILITY IS DEPENDENT UPON THREE INTERRELATED FUNCTIONS -- (1) INDIVIDUAL CUSTOMS UNITS TAKING PROPER INVENTORIES AND PROVIDING ACCURATE AND TIMELY INFORMATION TO THE NFPS; (2) NFPS RECORDING THE CHANGES TIMELY AND TAKING PROPER INVENTORY OF WEAPONS IN ITS POSSESSION; AND (3) AN AUTOMATED SYSTEM STRUCTURED IN A MANNER THAT ACCURATELY TRACKS THE LOCATION OF ALL FIREARMS IN CUSTOMS INVENTORY.

IG'S REVIEW OF THE FIREARMS PROGRAM

IN THE VERY EARLY STAGES OF THIS AUDIT, YOUR COMMITTEE PROVIDED US WITH RESULTS FROM WORK IT PERFORMED WHICH WAS EXTREMELY VALUABLE IN HELPING US FOCUS OUR AUDIT TO THOSE AREAS WHERE SIGNIFICANT PROBLEMS EXISTED. OUR AUDIT RESULTS SHOWED THAT CUSTOMS FIREARMS ACCOUNTABILITY PROGRAM IS UNABLE TO PROVIDE PROPER ACCOUNTABILITY OVER ITS FIREARMS AND NEEDS SIGNIFICANT IMPROVEMENT.

AT THE HEART OF THE PROBLEM IS THE FAILURE OF MANAGERS AND EMPLOYEES IN THE FIELD AND AT NFPS TO CARRY OUT THEIR RESPONSIBILITIES TO ACCOUNT FOR AND CONTROL FIREARMS, AND AN OUTDATED COMPUTERIZED INVENTORY SYSTEM.

OUR AUDIT BROUGHT TO MANAGEMENT'S ATTENTION MISSING FIREARMS, FIREARMS IN THE POSSESSION OF RETIRED EMPLOYEES AND RECORDS SHOWING FIREARMS THAT WERE ASSIGNED TO EMPLOYEES THAT WERE ACTUALLY DESTROYED YEARS EARLIER. FOR EXAMPLE, WE FOUND 3 INSTANCES WHERE FIREARMS WERE TAKEN BY RETIREES WHEN THEY SEPARATED FROM CUSTOMS BACK IN 1989 AND 1990. CUSTOMS RECOVERED THESE FIREARMS WHEN WE BROUGHT THIS TO THEIR ATTENTION. THE WHEREABOUTS OF FOUR OTHER WEAPONS WE IDENTIFIED AS MISSING HAVE STILL NOT BEEN DETERMINED. A FIFTH MISSING WEAPON, WHICH THE COMMITTEE IDENTIFIED IN MATERIAL THEY HAD TURNED OVER TO US, HAS ALSO NOT BEEN FOUND. BASED ON A STATISTICAL SAMPLE WE TOOK DURING OUR AUDIT, AS MANY AS 47 FIREARMS MAY BE MISSING FROM THE CUSTOMS INVENTORY.

AS I MENTIONED EARLIER, BECAUSE FIREARMS ARE ASSIGNED TO EMPLOYEES WORLDWIDE, IT IS ESPECIALLY IMPORTANT THAT EMPLOYEES AT ALL LEVELS IMPLEMENT CUSTOMS FIREARMS POLICIES AND PROCEDURES. WE FOUND

THAT THIS WAS NOT ALWAYS HAPPENING. FOR INSTANCE, WE FOUND THAT FIELD OFFICES WERE NOT PROVIDING THE NATIONAL FIREARMS PROGRAM STAFF WITH COMPLETE, ACCURATE, AND TIMELY INFORMATION ON THE LOCATION AND ASSIGNMENT OF FIREARMS. WE IDENTIFIED FIVE OFFICES THAT CERTIFIED THE FIREARMS ASSIGNED TO THEM HAD BEEN PHYSICALLY VERIFIED.

BASED ON THE RESULTS OF OUR REVIEW, THESE CERTIFICATIONS WERE QUESTIONABLE. FOR EXAMPLE, SOME FIREARMS CERTIFIED AS BEING PHYSICALLY VERIFIED HAD BEEN DESTROYED, WERE MISSING, OR WERE NO LONGER ASSIGNED TO THAT OFFICE. THE THREE FIREARMS THAT WERE TAKEN BY EMPLOYEES WHEN THEY RETIRED HAD BEEN CERTIFIED AS PHYSICALLY VERIFIED FOR AT LEAST ONE ANNUAL INVENTORY AFTER THE RETIREES HAD LEFT THE CUSTOMS SERVICE.

WE ALSO IDENTIFIED 324 FIREARMS THAT WERE INCORRECTLY RECORDED IN THE COMPUTERIZED INVENTORY SYSTEM AS CURRENTLY ASSIGNED TO EMPLOYEES WHO WERE NO LONGER WITH CUSTOMS. WHILE ALL BUT THREE OF THESE FIREARMS WERE ACCOUNTED FOR, THE MAJORITY OF THE ERRONEOUS RECORDS RESULTED FROM THE FAILURE OF FIELD OFFICES TO TIMELY REPORT THE REASSIGNMENT OF THE FIREARMS.

WE ALSO FOUND THAT NFPS, THE CENTRALIZED FIREARMS CONTROL FUNCTION, WAS NOT EFFECTIVELY ENSURING THE ACCURACY OF THE INFORMATION ENTERED IN THE AUTOMATED FIREARMS SYSTEMS. NFPS WAS ALSO NOT EFFECTIVELY FOLLOWING UP ON PROBLEMS WITH TIMELY OR ACCURATE SUBMISSIONS OF ANNUAL INVENTORY CERTIFICATIONS BY THE FIELD OFFICES.

TO COMPOUND THE PROBLEM, THE COMPUTER SYSTEM USED BY CUSTOMS, WICS, IS OUTDATED AND INEFFECTIVE. IT WAS NEVER DESIGNED TO SERVE AS A CENTRALIZED DATABASE TO CONTROL AND ACCOUNT FOR FIREARMS. WICS IS AN OUTGROWTH OF CUSTOMS PROPERTY SYSTEM, A SYSTEM THAT DID NOT HAVE THE CAPABILITY TO IDENTIFY INDIVIDUAL WEAPONS BY SERIAL NUMBERS TO SPECIFIC CUSTOMS EMPLOYEES. AS CONFIGURED, WICS DOES NOT HAVE THE CAPABILITY TO PRODUCE USEFUL MANAGEMENT INFORMATION REPORTS, NOR DOES IT PROVIDE ON-LINE REMOTE ENTRY CAPABILITY FOR CUSTOMS FIELD UNITS. THIS RESULTS IN UNNECESSARY PAPERWORK WHICH IS OFTEN COMPLETED INCORRECTLY OR NOT SUBMITTED TIMELY. IN SHORT, THE SYSTEM CANNOT PROVIDE CUSTOMS THE DEGREE OF CONTROL AND ACCOUNTABILITY IT NEEDS OVER FIREARMS.

THESE PROBLEMS EXIST BECAUSE CUSTOMS MANAGEMENT, AT ALL LEVELS, HAD NOT DEVOTED THE PROPER ATTENTION TO FIREARMS ACCOUNTABILITY. MANAGEMENT NEEDS TO PROVIDE MORE OVERSIGHT TO ENSURE ITS PROCEDURES ARE IMPLEMENTED. MANAGEMENT ALSO NEEDS TO CORRECT SYSTEM AND PROGRAM WEAKNESSES BY PROVIDING MORE ACCURATE AND TIMELY INVENTORY INFORMATION AND BY PROVIDING THE KIND OF MANAGEMENT INFORMATION THAT WILL ALERT THEM TO POTENTIAL PROBLEMS BEFORE THEY BECOME SERIOUS.

OUR AUDIT REPORT DISCUSSES OTHER WEAKNESSES THAT EXIST IN CUSTOMS' HANDLING OF FIREARMS. THESE WEAKNESSES INCLUDE THE PRACTICES USED IN THE PHYSICAL DESTRUCTION OF FIREARMS; THE MOVEMENT OF FIREARMS TO CUSTOMS LOCATIONS OVERSEAS; THE TRANSFER OF FIREARMS TO NFPS FROM FIELD OFFICES; AND THE TRANSFER OF FIREARMS TO OTHER ORGANIZATIONS.

OUR FINDINGS AND CONCLUSIONS LED US TO MAKE A NUMBER OF RECOMMENDATIONS TO CUSTOMS REGARDING THE FIREARMS PROGRAM. THE CUSTOMS COMMISSIONER SHOULD ESTABLISH PROCEDURES THAT WILL ENSURE PROPER CONTROL AND ACCOUNTABILITY OF FIREARMS AT ALL MANAGEMENT LEVELS. THIS INCLUDES ENSURING COMPLETE COMPLIANCE WITH POLICIES AND PROCEDURES BY ALL PERSONNEL, SUCH AS THE REQUIREMENT THAT INVENTORIES BE PROPERLY CONDUCTED AND CERTIFIED. THE COMMISSIONER NEEDS TO ENSURE THAT A NEW AUTOMATED FIREARMS ACCOUNTABILITY SYSTEM IS DEVELOPED. WE ALSO MADE SEVERAL SPECIFIC RECOMMENDATIONS REGARDING THE DESTRUCTION, MOVEMENT, AND TRANSFER OF FIREARMS.

MR. CHAIRMAN, CUSTOMS HAS AGREED WITH ALL THE FINDINGS AND ALL THE RECOMMENDATIONS AND EXPRESSED ITS DESIRE TO FIX THE PROBLEMS IN ITS FIREARMS ACCOUNTABILITY PROGRAM. WE ARE VERY ENCOURAGED BY THE MEETINGS WE HAVE HAD WITH CUSTOMS ON THIS MATTER AND THE RESPONSE WE RECEIVED TO OUR REPORT.

FINDINGS REFLECTIVE OF BROADER MANAGEMENT ISSUES

ALTHOUGH OUR FIREARMS REPORT FOCUSES ON ONLY ONE SPECIFIC PROGRAM OF CUSTOMS, WE BELIEVE THAT THE RESULTS ARE REFLECTIVE OF THE KINDS OF MANAGEMENT ISSUES WHICH IMPACTED OTHER CUSTOMS OPERATIONS IN THE PAST. THESE ISSUES HAVE BEEN REPORTED OVER THE LAST SEVERAL YEARS BY OUR OFFICE, THE GENERAL ACCOUNTING OFFICE, AND THE CUSTOMS BLUE RIBBON PANEL. THIS SUBSTANTIAL BODY OF WORK WAS SUMMARIZED BY GAO BEFORE THIS COMMITTEE ON FEBRUARY 3, 1993, IN ITS

TESTIMONY OF GOVERNMENT HIGH RISK AREAS. GAO'S TESTIMONY INCLUDED THE FOLLOWING PROBLEMS RELATING TO THE CUSTOMS SERVICE:

- ABSENCE OF RELIABLE INFORMATION AND DATA INTEGRITY,
- A LACK OF AN EFFECTIVE STRATEGIC MANAGEMENT PROCESS CAPABLE OF GUIDING ITS OPERATIONS AND ESTABLISHING ACCOUNTABILITY FOR PERFORMANCE, AND
- DEFICIENT INFORMATION SYSTEMS.

MR. CHAIRMAN, I BELIEVE THAT THE PROBLEMS IDENTIFIED IN OUR FIREARMS REPORT IS A MICROCOSM OF THE PROBLEMS PREVIOUSLY REPORTED AND SUMMARIZED IN GAO'S TESTIMONY.

OVER THE PAST YEAR, THE CUSTOMS SERVICE APPEARS TO HAVE EITHER TAKEN OR INITIATED ACTION TO CORRECT THESE MANAGEMENT PROBLEMS. IN RESPONSE TO OUR REPORT ON THE SOUTHWEST REGION AND THE FINDINGS OF THE BLUE RIBBON PANEL, CUSTOMS HAS ESTABLISHED AN OFFICE OF ORGANIZATIONAL EFFECTIVENESS TO MONITOR IMPLEMENTATION OF MANAGEMENT REFORMS, INSTITUTED LINE AUTHORITY FROM THE ASSISTANT COMMISSIONER FOR ENFORCEMENT TO THE SPECIAL AGENT OFFICES IN THE FIELD TO BRING ABOUT GREATER ACCOUNTABILITY, REVISED ITS TRAINING PROGRAM, AND DEVELOPED NEW PERFORMANCE STANDARDS. IN ADDITION, IN RESPONSE TO GAO'S GENERAL MANAGEMENT REVIEW, CUSTOMS HAS ESTABLISHED TASK FORCES TO FORMULATE AND IMPLEMENT EFFECTIVE SOLUTIONS TO ITS MANAGEMENT PROBLEMS.

MR. CHAIRMAN, I WOULD LIKE TO STRESS THAT THE OPERATIVE WORD FOR ALL THESE ACTIONS IS "APPEARS". I SAY THIS BECAUSE THE OIG HAS NOT VERIFIED THAT CUSTOMS ACTIONS HAVE BEEN FULLY IMPLEMENTED OR ASSESSED THEIR EFFECTIVENESS. CONTINUED OVERSIGHT OF THESE EFFORTS-- BY CUSTOMS MANAGEMENT, THE OIG AND YOUR COMMITTEE-- IS NEEDED TO ENSURE THE ACTIONS ARE EFFECTIVE. TO THIS END, THE OIG INTENDS TO PERFORM A FOLLOW UP AUDIT THIS YEAR THAT WILL EVALUATE THE EFFECTIVENESS OF THE CUSTOMS ACTIONS I JUST MENTIONED. IN ADDITION, OUR FUTURE AUDIT WORK AT CUSTOMS WILL STRESS IN EACH OF OUR AUDITS WHETHER CUSTOMS EFFECTIVELY IMPLEMENTED ITS PROMISED CORRECTIVE ACTIONS.

MR. CHAIRMAN, COMMITTEE MEMBERS, THIS CONCLUDES MY REMARKS. I WILL BE HAPPY TO ANSWER ANY QUESTIONS THAT YOU MAY HAVE.

Chairman PICKLE. Thank you very much, Mr. Weinstein.

I am going to declare a short recess. Some of the members are on their way back. The motion pending may be followed by another vote. We do not know at this point. But if they do come back, Mr. Brewster will resume the questioning.

So I am going to ask, Mr. Schindel, if you will withhold your statement. Do you have a statement to make?

Mr. SCHINDEL. Mr. Chairman, no. Mr. Weinstein's statement covers the work that we performed.

Chairman PICKLE. All right. Then I will declare a short recess until another member can get back to the floor. If we do not have another vote that follows this, we will be back immediately.

Thank you very much, Mr. Weinstein.

[Recess.]

Mr. BREWSTER [presiding]. If we can get started, Mr. Pickle will be back momentarily. There may be additional votes this afternoon. We hope there will not be.

But at any rate, I missed part of your testimony a moment ago, but I did read yesterday quite a bit of the information concerning the whole deal, and I guess that we are in order to go ahead and ask you a few questions, right?

Mr. WEINSTEIN. Yes, sir.

Mr. BREWSTER. In reading yesterday, it appeared to me that Customs' main problem was just determining what happened with guns within Customs, either for retirees or whatever. Am I correct on that?

Mr. WEINSTEIN. They did not have accurate information available to them to let them know where the weapons were. So in some cases, we found retirees who had taken the weapons with them. In many more cases, what we found is that Customs' information, provided to it by their field offices, was not accurate, so they could not determine easily where the weapons were located.

Mr. BREWSTER. How many retirees kept their weapons during your investigation?

Mr. WEINSTEIN. Well, at the time of our review, we were able to identify three employees who separated from Customs, who carried their weapons with them.

Mr. BREWSTER. What were those? Pistols?

Mr. WEINSTEIN. They were—yes, they were handguns. They were Browning 9-mms and Colt Troopers.

Mr. BREWSTER. Did the former employees still have them in their possession, or had they sold them?

Mr. WEINSTEIN. No. When we did our work and inquired as to where those weapons were, the weapons were returned by the former employees back to the NFPS.

Mr. BREWSTER. Were those weapons that were purchased and issued to the employees, or were they confiscated and issued to the employees?

Mr. WEINSTEIN. I believe they were purchased weapons that were issued to the employees.

Mr. BREWSTER. Do they routinely purchase different calibers and different styles of weapons? A Browning 9 mm is quite different than a Colt Trooper.

Mr. WEINSTEIN. Right. They have a number of different weapons in their inventory. It is my understanding that they are trying to standardize on Smith & Wesson weapons, but they do have a number of different types of weapons.

Mr. BREWSTER. What about the confiscated weapons? Do they have a complete accounting of the weapons that are being confiscated over the last number of years?

Mr. WEINSTEIN. I can only refer to the results of our work. We visited seven districts, and we found that there were problems in two of those districts concerning sending the firearms to NFPS.

In one case, we found some seized firearms that were being held for a number of years that had not been turned over to NFPS, and in some cases we found weapons that were actually destroyed in another district.

We also found, through some work in another audit, one district was holding 515 firearms and a lot of ammunition for over 3½ years. They had not sent that material to NFPS. When that happens, the vulnerability of those types of weapons increases.

Mr. BREWSTER. What was their statement as to why they were retaining those weapons and ammo for 3 years in violation, I assume, of their rules; am I correct?

Mr. WEINSTEIN. When you are dealing with seized material that is forfeited to the Government, that is supposed to be transferred to NFPS immediately, and with general order equipment—or firearms, that is—they are supposed to be transferred after the 1-year claiming period has expired.

To answer your question, I think in each individual situation, there were different reasons given. I think the bottom line was that they were not implementing Customs' procedures.

What we are finding—and this is a common trend in the work that we are doing and certainly a common trend in the work, the collective body of work that's also been done by GAO, is that Customs does not have good management information systems that will help it identify how well the field and other organizational units are performing.

So if there is noncompliance out in the field right now, Customs has difficulty identifying that.

Mr. BREWSTER. When the problem was identified, was there any—did anything happen to the people that were involved? Were they put on probation or anything, or was there anything at all?

Mr. WEINSTEIN. In the specific instances that I mentioned, I am not aware of any action taken against the individuals. I am talking about the seized and general order firearms that should have been transferred in to NFPS. I am not aware of any disciplinary action that was taken.

Mr. BREWSTER. Do you have any suggestions or did you make suggestions to Customs on how to change the perceived problems there?

Mr. WEINSTEIN. We certainly did. Our report contained 16 recommendations that would cover the gamut from improving the input in the system, the accuracy of the data, to designing a new WICS system, to providing and developing management information so the organization can assess its performance and hold people accountable.

To Customs' credit, they agreed with all the findings and all the recommendations and have promised corrective actions will be taken.

Mr. BREWSTER. How long ago did you make those recommendations?

Mr. WEINSTEIN. We issued our draft report to Customs, I believe it was the end of December. We received their response about a week ago. And during that period of time, we had conversations and meetings with them to discuss our report.

Mr. BREWSTER. So there has not been time to actually implement the proposals that you made?

Mr. WEINSTEIN. No, there has not. But we intend—one of the things that we desire to do at Customs now that we have a body of work—we were established in 1989—is go back periodically to check their promised corrective actions to see whether they have actually been implemented and whether they have been implemented effectively.

Mr. BREWSTER. The only thing that you checked on this was guns? You didn't check contraband or ammo or anything else?

Mr. WEINSTEIN. To some extent in a couple of instances we checked firearms—excuse me—ammunition. But we were focusing basically on Customs' firearms. We have done some other work that relates to Customs-held seized property, and we are in the process of preparing a summary report on those findings.

Mr. BREWSTER. Mr. Chairman, we will turn it back to you.

Chairman PICKLE [presiding]. Thank you, Mr. Brewster.

Now, Mr. Hancock, the chair recognizes you for questioning.

Mr. HANCOCK. Thank you very much.

I would like to get back to this area of certification of firearms as being physically verified, as being destroyed or missing or no longer assigned to that office, and that were certified as being there.

What type of a statement—when you say “certified,” is it signed by some individual under a statement of some type?

Mr. WEINSTEIN. Yes. The Firearms Officers are required to take an inventory annually of the weapons that they have in their organizational unit. In the cases that we referred to, those Property Officers—excuse me—Firearm Officers, signed off that the data on the listing was, in fact, accurate.

It is clearly my understanding that they were also certifying that they had physically verified those weapons.

Well, in certain cases, it is obvious to us that that could not have happened, because the weapons had been destroyed or had left Customs with separated employees.

Mr. HANCOCK. Now this is a similar type of statement or certification that everybody signs, say, with GSA, like I have to sign on my inventory down in southwest Missouri, you know. Is it a similar type statement? You know, I certify the above statement is accurate, and that's about it? Is that basically what it is?

Mr. SCHINDEL. I believe, Mr. Chairman, they do have a form.

Mr. HANCOCK. It is not like the IRS form that says that if I am wrong, I might go to jail, or anything like that?

Mr. WEINSTEIN. No, no.

Mr. HANCOCK. Now the certifications, you got these people's names that actually signed. You know who the individual was. You don't have to say, "Well, it was a group of people." You actually got their name?

Mr. WEINSTEIN. Yes, I believe we do. We do not have those names with us.

Mr. HANCOCK. I understand that. But, I mean, it is John G. Smith, a GS-15; you have got the name?

Mr. WEINSTEIN. Yes.

Mr. HANCOCK. And to the best of your knowledge, there has never been anybody reprimanded for having signed a false certification; is that correct?

Mr. WEINSTEIN. To my knowledge, you are correct.

Mr. HANCOCK. Now my next step is, how do you certify that something has been destroyed? Is it the same guys who are signing the certification that it is on hand who are certifying that they have also been destroyed?

Mr. WEINSTEIN. No, it is not. You are talking about the actual weapon being destroyed?

Mr. HANCOCK. How did you determine that these weapons had been destroyed? You say that they were verified, had been destroyed.

Mr. WEINSTEIN. Correct.

Mr. HANCOCK. How did you determine the weapons had been destroyed?

Mr. WEINSTEIN. I believe our auditors looked at destruction records that showed that the weapons had been destroyed.

Mr. HANCOCK. And that somebody certified that they had been destroyed?

Mr. WEINSTEIN. That is correct.

Mr. HANCOCK. In other words, you did not see any physical evidence that they had been destroyed. You just had another certification from somebody that maybe lied to you in the first place.

Mr. WEINSTEIN. It is correct that we did not see the actual destruction of the weapon in question.

Mr. HANCOCK. Do you believe, on your knowledge of your information, that the ones—you have already determined so many cases where they certified that the weapons were physically there, and you found out that they were not there—do you believe that the certification that these weapons had been destroyed is good—I mean, does it not have the same percentage of error where the weapons may have been certified destroyed, yet in some way were carried out of this building that we have got the pictures of down there that is not exactly high security?

Mr. WEINSTEIN. Right. We have a concern about the certification of the weapons that were destroyed, and the reason for that is that at the time of our review, one person had almost exclusive control over the destruction process. That person was able to box up the weapons that were to be destroyed, list the weapons, be involved in the destruction process, and then certify that the weapons were destroyed.

In auditing jargon, that means that there was not a proper separation of duties, so one person controlled too much of the transaction.

So, yes, we are concerned about the destruction process as it existed at the time of our audit.

Since we issued our draft audit report, Customs has changed its destruction process. So the concerns that we had at the time no longer exist, because they are now using a number of people to certify destruction.

Mr. HANCOCK. OK, fine. Are you getting, in addition to the certification, you are getting some form of outside certification, other than just the Government employee's certification of the Customs Service itself?

Mr. WEINSTEIN. Right. The person who is certifying that the weapons have been destroyed is no longer the same person who controls all other aspects of the destruction process. It is my understanding that that certification individual is still a Customs employee, but he no longer controls the process the way he did before.

Mr. HANCOCK. Well, I would like to get this answer into your testimony or an answer to this question. The NFPS staff or Customs management when you made your investigation, in your opinion, do they have or did they have any effective program to verify who has what firearms in the field office, any effective program for verification of who has the firearms in the field offices?

Mr. WEINSTEIN. We believe that Customs' system is not effectively accounting for its weapons. So I would say that they do not have an effective firearms accountability system. I hope that answers your questions.

Mr. HANCOCK. That answers the question.

One final question. The accounting or the computer program they have down there to keep track of these, you say here that it is what they call a Weapons Inventory Control System, and that it is filled with inaccuracies, and it has basic design flaws. What are they attempting to do with this WICS system—I guess that is what you would call it—other than just track who has what weapons and where they are located? Is there a lot of other things they are trying to do with that same computer software or that computer program other than this?

Mr. WEINSTEIN. I think the system is a poor system, and it is a poor system for two reasons. One, the information is not accurate from the field. So any system is going to be dependent on field input. In the case of the field input, we feel it was not good input.

Customs has agreed to modify—in fact, reconfigure the WICS system, and, in fact, we met with some people from their ADP staff. Second, there are certain edit checks that can be built into that system to ensure the accuracy of the data that Customs is receiving from the field. That is what we recommended, and that is what Customs intends to do.

Mr. HANCOCK. The number of weapons we are talking about is 21,000 weapons. Is that right?

Mr. WEINSTEIN. At the time of our audit, it was 21,000.

Mr. HANCOCK. Is that their inventory of weapons down in Fort Benning, or is that the total number of weapons that they supposedly have that people have out in their hands?

Mr. WEINSTEIN. That is the total inventory of weapons that Customs has. Some of that is maintained at NFPS at Fort Benning,

and most of it is out in the field in the hands of either the organization units or their employees.

Mr. HANCOCK. But confiscated weapons would be, really, the toughest ones to track. Those are the ones that could disappear just very easily. They are never assigned to anybody.

I mean, they confiscate them and maybe in bunches, maybe one or two at a time. But they are never actually assigned to the Government employee. They would be the toughest ones to keep track of.

Mr. WEINSTEIN. There are—yes, I would agree with you. There are different sets of vulnerabilities when those weapons are basically seized, and they are out in the district offices, and NFPS does not know about their existence. There is nobody out there who can effectively control where all the weapons are.

Mr. HANCOCK. One final question. I have heard that sometimes these confiscated weapons are traded for new weapons in some manner. Is that correct?

Mr. WEINSTEIN. That is correct. It is called an exchange sale. So confiscated weapons can be—and these are seized weapons—can be essentially sold to GSA-certified weapons dealers in exchange not for money, but for purchase credits.

So Customs, in the case of seized weapons, can take those seized weapons and sell them to a weapons dealer and get new weapons in return.

Now, one of the recommendations in our audit is that there is another category of confiscated weapons called general order weapons, and, currently, Customs does not have the ability to use the exchange sale method of turning in those weapons. They either sell them in public auction or they destroy them.

Customs, and I think properly so, has decided not to sell them in a public auction because they cannot control who it is that is going to be purchasing the weapons, and we think that there is an opportunity for Customs to save some money through the exchange sale.

Mr. HANCOCK. Thank you.

Thank you, Mr. Chairman.

Chairman PICKLE. Thank you, Mr. Hancock.

Mr. Lewis.

Mr. LEWIS. Thank you, Mr. Chairman.

I am sorry I missed your testimony, but I have had an opportunity to review your statement.

Let me just ask: Do you believe that Customs has the necessary capacity and personnel to implement your recommendation?

Mr. WEINSTEIN. Yes, I do.

Mr. LEWIS. If you believe it, you stated in your prepared statement that these issues have been reported over the last several years by your office, by the GAO office, and the Customs Blue Ribbon Panel. Why are you so convinced today, after all these years, that Customs is now prepared and able, ready, and willing to implement the recommendations?

Mr. WEINSTEIN. I think that Customs has been subject to an extensive review—reviews by GAO, by our office, and by this very committee, and I think that all that body of work has identified is-

sues that Customs realizes that it needs to address, and they have made a commitment to address those problems.

So I feel, in the context of that framework, Customs has the ability to address the 16 specific recommendations that we made in our report.

Chairman PICKLE. Will the gentleman yield?

Mr. LEWIS. Yes, Mr. Chairman, I will yield.

Chairman PICKLE. In line with that question, how long will it take Customs to get their inventory in shape and implement these recommendations you have made?

Mr. WEINSTEIN. I think many of them can be implemented now. In fact, I think Customs has started to implement some of them.

For instance, we made some recommendations regarding how they can better control the weapons at NFPS, and they have started to do that.

I think the recommendation that will be the hardest one for them to implement, the one that will take the longest period of time, will be the one dealing with the development of a new system, because systems—it will take some time for their ADP staff to design the new system.

I believe that Customs has been talking about a period of a little over a year to get that accomplished.

Chairman PICKLE. Thank you.

Mr. LEWIS. But should it take years to know how many guns are on the streets or not accounted for in this modern age of computers and technology, this new age of technology?

Mr. WEINSTEIN. It should not take years to know, and, ideally, they should know now.

I am familiar with systems design work, and I am not aware of systems that are similar to the one that Customs is going to need. So I think it will take some time for them to develop a new system.

Your point, however, is whether we should have been at this state now; you know, should Customs have been in the position where it has lost—not lost, but is having as much difficulty in accounting for its weapons as it does, and I would argue that it should not.

Mr. LEWIS. Thank you.

Thank you, Mr. Chairman.

Chairman PICKLE. Thank you, Mr. Lewis.

Mr. Santorum, would you have any questions?

Mr. SANTORUM. Yes, if I can, Mr. Chairman, just for a moment.

I was struck—and I, too, apologize for not listening to a couple of your entries—as I flip through your testimony, I was struck at the end where you made the point that this particular incident within the Customs Department was not necessarily inconsistent with other GAO reports about management problems within the agency—

Mr. WEINSTEIN. Correct.

Mr. SANTORUM [continuing]. And that this may be just one of many things that need to be looked into.

From what I understand, your testimony and other things that are going to be said at this hearing, it seems to me that things have not moved along quickly. What sort of suggestions would you

have that we can shed some more light on the activities of what is going on and make some management changes in particular?

Mr. WEINSTEIN. You know, it is interesting because, if you look at all of the audit reports that have been issued by our office and by GAO, and you compare that to the work of this committee and to GAO, you are going to find certain trends, and those trends deal with information systems. It deals with providing management information regarding organizational and individual's performance. It deals with holding people accountable.

All of those are similar issues that have been reported over the last several years.

Mr. SANTORUM. And this incident is consistent with that?

Mr. WEINSTEIN. Exactly. And I think what we have here is such a situation—and I think Customs fully realizes that now.

Having been subject to that degree of scrutiny, I think they will admit that many of their solutions to prior problems have been piecemeal. I believe that Customs now understands that they need to address those issues in all of their programs to provide an opportunity to have an effective Customs operation.

Mr. SANTORUM. I guess maybe this is a basic question. What sort of ongoing oversight is going on here, so we do not see the same situation happen where 2 years have gone by or years have gone by and basically nothing is changed?

Mr. WEINSTEIN. Well, we are committed to providing some of that oversight in the sense that we are going to go back in and look at the implementation of some of their prior promised corrective actions.

Mr. SANTORUM. When you say prior promised corrective actions—

Mr. WEINSTEIN. Correct.

Mr. SANTORUM [continuing]. Are their plans in place?

Mr. WEINSTEIN. Yes. Customs, about a year and a half ago, was subject to two reviews of its operations in the Southwest region, and those reviews identified significant problems.

Customs has developed and, in many cases, has started to implement corrective actions to address the problems that were identified.

We intend this year to go back in and assess those actions and try to make a determination as to whether Customs is any better off now than they were a year and a half ago.

So I think that is an important element of oversight. I think that the hearings that this committee holds reinforces the fact that in Government we are all accountable, and we have to keep our eye ahead and be responsible for our actions and the actions of our employees.

Mr. SANTORUM. I agree with you, sir, and I want to commend the chairman for your hearing and for your looking into this situation. Thank you, Mr. Chairman.

Chairman PICKLE. Now, Mr. Weinstein, I want to thank you for your testimony and for the audit the Inspector General's office has conducted.

Your statement is full, it is positive, and it makes specific recommendations.

I am also encouraged that you have said that, in addition to this report, you are making another reevaluation at Customs within the year—

Mr. WEINSTEIN. Yes.

Chairman PICKLE [continuing]. To see if they are carrying out the recommendations you have made.

Inasmuch as they have agreed that these recommendations are good ones and should be implemented, there should be no reason why this should not be brought to a finality within the year.

This committee would also reevaluate the performance of the Customs office, because we have insisted now for over 2 years that this be done, and we have been given vague, inaccurate, if not definite misinformation. That kind of response from the field cannot be tolerated.

So, as you review the operations, this committee, likewise, will be following through with the same procedure. I think that should be.

As a matter of the record, I want to ask you a few additional questions, and so then we can get to these other witnesses.

Mr. WEINSTEIN. Certainly.

Chairman PICKLE. I guess the first broad question I would want to ask is: Do Customs inspectors, in general, know that it is improper to keep Government property?

Mr. WEINSTEIN. I have not interviewed them myself, sir, but I would—I think that there is an educational program in Customs Service dealing with ethics, and I certainly hope they would know that.

Chairman PICKLE. Are former agents or retirees allowed to keep Customs weapons when they retire?

Mr. WEINSTEIN. We found instances where that occurred, but we do not have any indication that it is either a formal or informal Customs practice.

Chairman PICKLE. Well, if it has occurred at times, I ask you: Then why do agents around the country just assume that they can keep the weapons when they retire? Do you believe they think that?

Mr. WEINSTEIN. I would like to put that in a little different perspective.

We found three individuals who retired who took their weapons, and I would say that that is three too many. But, on the other hand, I would also say that that was three out of the universe that we were able to establish. Accordingly, while it occurred, and it should not be condoned; we do not think that it is a systemic problem at the Customs Service. I think they have got other problems, but I do not think that—

Chairman PICKLE. That is not in dispute.

Mr. WEINSTEIN. OK.

Chairman PICKLE. Because, in your own testimony, you say what is happening in this instance—

Mr. WEINSTEIN. Right.

Chairman PICKLE [continuing]. Is systematic of the whole Customs operation, as indicated by the Blue Ribbon Commission by the Southwest border and the old boys network. You are saying this is

just another instance of where the office here in Washington does not know what the field offices are doing—

Mr. WEINSTEIN. That is correct, sir.

Chairman PICKLE [continuing]. And that the field offices are either carelessly or intentionally not informing the office here or that the office here just winks and looks the other way. I cannot ask you to say which you think it is, but it has to be one or the other—

Mr. WEINSTEIN. Yes.

Chairman PICKLE [continuing]. Because this thing has been going on for another 2 years, and, yet, we have not gotten anything specific, even after we were told that everything—I am going to ask the next panel some of these questions. But we have come to the conclusion that they have just been lax in their enforcement, and that, I guess, is what we would have to say.

Let me ask you one or two other questions. One, I want to ask you about a weapon that was assigned to Customs employees who are now in prison. I believe you will be familiar with that, I hope?

Mr. WEINSTEIN. Yes, sir.

Chairman PICKLE. The inspector general found a case where an agent was arrested in February 1990. The gun was returned to Internal Affairs. Yet, in 1991, Customs' computer data base, WICS, still listed the firearm in the agent's possession. Why was this individual arrested?

Mr. WEINSTEIN. I am going to ask Mr. Schindel to answer that question.

Chairman PICKLE. All right. Mr. Schindel? That will be fine.

Mr. SCHINDEL. He was arrested, I believe, for selling cocaine out of his Government vehicle.

Chairman PICKLE. What kind of weapon did he have?

Mr. SCHINDEL. It was a handgun.

Chairman PICKLE. What kind? Do you remember what kind, just for the record?

Mr. SCHINDEL. It was—I will have to—I will have to provide that for the record, Mr. Chairman.

Chairman PICKLE. I am advised that it was Smith & Wesson 6906, just for the record. Would you check it, and if that is not correct, why, let me know.

Mr. SCHINDEL. OK.

Chairman PICKLE. Then can you tell me why the WICS system was not updated?

Mr. SCHINDEL. My understanding was that the gun was confiscated by the Internal Affairs function when the special agent was arrested, and while the case was going on, they had held the gun, and then it had been returned at the field. But no input was made to WICS to reflect the fact that it had been returned.

Chairman PICKLE. It just had not been updated?

Mr. SCHINDEL. Correct.

Chairman PICKLE. Another instance, one manager at the NFPS system in Georgia took ammunition for his personal use. A Customs employee—now, this was a manager—reportedly took seized ammunition, two 800-round tins of 20 carbine rifle cartridges, that he used for his personal use and that of his friends.

Can you tell me what exactly this employee did? Was it a crime?

Mr. SCHINDEL. Our understanding was that this was investigated by Customs Internal Affairs, and there was a determination that it was not a criminal violation, but that it was indiscretion on the part of that manager, and I believe Customs took some administrative action.

Chairman PICKLE. Well, for the record, I am advised that the agent and the manager involved here shipped ammunition to his ranch in Montana on the Government's UPS contract for personal sport shooting, and they also gave some ammunition to former Customs employees. Is that correct? Did Customs take any action against this employee?

Mr. WEINSTEIN. I believe that they took action against the employee by putting him on leave without pay and transferring him. That is my understanding.

Chairman PICKLE. All right. Now, since it was not a crime, you just transferred him from one office to another one? Leave without pay and you transferred him. They shipped 800-round tins of 20 carbine rifles to his ranch in Montana, and so your punishment, why, you just transferred him to another office. Is that correct? Is that what you understand?

Mr. WEINSTEIN. That is my understanding.

I will say that I was not under the impression that he transferred the ammunition to his Montana property. My understanding was that he shared that ammunition with former Customs employees. That does not make it right either.

But, for the record, I was not aware that the ammunition moved to Montana.

Chairman PICKLE. I asked the staff in your office, Mr. Weinstein, actually what did happen and how much was transferred in what case. We do know that, in either event, all that happened to him was that he was transferred to another office.

Now, Mr. Weinstein—

Mr. WEINSTEIN. Yes.

Chairman PICKLE [continuing]. In the absence of the audit that you conducted, drawing attention to this case, do you think that this manager has been disciplined by Customs? Do you as inspector general think transferring him from one office to another was satisfactory?

Mr. WEINSTEIN. I believe that the cumulative actions that were taken were—address the issue.

Chairman PICKLE. Well, I guess a more fairer question is it is not likely that he would have been transferred at all unless this had been brought to light—these facts had been brought to light.

Mr. WEINSTEIN. I cannot—

Chairman PICKLE. You can actually agree to that?

Mr. WEINSTEIN. I cannot address that, sir. I am not familiar with the case.

Chairman PICKLE. Another question. I am going to provide some time here. The inspector general concludes, it is your testimony, that Customs' firearms accountability program does not provide proper accountability over the firearms and needs improving.

My first question to you is: Does the U.S. Customs Service have an effective Firearms Accountability Program to prevent the loss,

undetected theft, and unauthorized diversion of firearms? Do they have an effective program?

Mr. WEINSTEIN. I would say they do not, sir.

Chairman PICKLE. You testified, in effect, that they do not have an effective program.

Does the IG consider these—a deficiency—serious?

Mr. WEINSTEIN. Yes. We consider these—this issue serious. When you are dealing with firearms, even if it is 50 firearms out of an inventory of over nearly 21,000 weapons. We believe it is serious.

Chairman PICKLE. Customs has indicated that they have no major problem. Would you say this is a major problem?

Mr. WEINSTEIN. I would say it is a major vulnerability to the Customs Service.

Chairman PICKLE. Can you tell me how old these problems are, how long this has been going on?

Mr. WEINSTEIN. I would say that we did our work back in 1991, which covered a period of 1991 and 1990. So that is the period of time that I can attest to. I clearly understand that this has been an issue that has been raised in the late '80s as well.

Chairman PICKLE. You have stated at the very beginning of your testimony that it is important for Customs to properly account for its weapons.

Mr. WEINSTEIN. That is correct.

Chairman PICKLE. Can you tell me why that is important? Some people say, "Why do you take our time to publicly hold a hearing where it is admitted by all sides that the system of accountability is very lax? Everyone admits it?" It is not any big dent in the Federal deficit, the budget, but it is important. Now, tell me why it is important we should be serious and careful about this.

Mr. WEINSTEIN. We view firearms differently than we view other property. A firearm can be used in the commission of a crime. It can cause bodily harm.

We feel, because of that, that to protect citizens as well as to ensure the Customs' integrity and avoid embarrassment specifically to Customs as well as the law enforcement community in general, it is very important that firearms are properly controlled.

Chairman PICKLE. Mr. Weinstein, let me ask you a broad question. We were told 2 years ago when we started on this that everything is in order and that we have no major problems—a year and a half at least. We kept insisting that it was, because we had people reporting from the field that it is serious.

The field office, obviously, had not kept this office in Washington informed fully, or at least this office here has not followed through.

Now, for 1½ to 2 years, the report was that we have no major problem and everything is in order, and now, after your audit, you said that is not correct.

Many, many guns have been returned since we first held this hearing. Do you suppose those dozen or two dozen guns would have just floated in and been reported if we had not looked into this question?

Mr. WEINSTEIN. I would think that, based on our experience where we identified individuals who had weapons and had left the

Customs Service, it was at that time when we identified those situations that the weapons were returned.

So I think that, by extension, it is logical to assume that your questions as well have caused weapons to be returned to Customs Service.

Chairman PICKLE. We just have to admit to ourselves that, common sense would tell you, these weapons would not have been reported if we had not held these hearings and if you had not held also the audit. We know that—everybody.

Now the question is: Why do we have to suffer public embarrassment, just to carry out the law? That is the difficult thing to understand. But we hope that things will be better, and we demand that they get better.

Now, do any other members have any other questions of Mr. Weinstein at this point?

[No response.]

I thank you very much.

Mr. Schindel, do you have any other statement to make?

Mr. SCHINDEL. No, Mr. Chairman.

Chairman PICKLE. All right. Thank you very much, Mr. Weinstein, for your testimony.

Mr. WEINSTEIN. Thank you, Mr. Chairman.

Chairman PICKLE. Now the Chair will ask for the next panel to come up.

Next we will have Mr. Mark Humphreville, former U.S. Customs Service employee. He was with the National Firearms Program Staff.

Mr. Humphreville, will you take the witness stand, please.

Is Mr. Humphreville here?

All right, Mr. Humphreville.

[Witness sworn.]

Chairman PICKLE. Thank you, Mr. Humphreville.

We will ask you to submit your statement.

TESTIMONY OF MARK K. HUMPHREVILLE, FORMER U.S. CUSTOMS SERVICE EMPLOYEE, NATIONAL FIREARMS PROGRAM STAFF

Mr. HUMPHREVILLE. Mr. Chairman, before I start, I would like to introduce the subcommittee to my wife, Ann, on my left here.

Chairman PICKLE. Yes. Mrs. Humphreville, we are glad to have you here.

Mr. HUMPHREVILLE. Good afternoon, Mr. Chairman and Oversight Subcommittee members.

I am sorry to say that my career in the Federal Government is over. Today, I would like to tell why.

My career with the Federal Government began when the director of the U.S. Army Weapons Command Board (Rock Island Arsenal, Ill.) recommended me for a position at the U.S. Army Small Caliber Weapons Laboratory (Picatinny Arsenal, N.J.). His recommendation was based upon his personal knowledge of my expertise in the weapons field.

While at Picatinny, I was the engineer-in-charge of the product engineering section for rifles, shotguns, and submachine guns. I also had responsibility for handgun design changes. Later, I was a

member of the weapons design team, which was given the U.S. Army Engineering Award for design and fabrication of the Dover Devil .50-caliber machinegun. While there, I received two Army commendations and several Letters of Appreciation for my work.

In 1981, I was hired as a small arms test director at Aberdeen Proving Ground, Md. There, I was the test director for the M16A2 rifle adopted by the U.S. Marine Corps, U.S. Army, and military organizations in many other nations. I received a commendation from the Commandant, U.S. Marine Corps, for my test and evaluation of the M16A2.

In January 1983, I was interviewed by, and personally selected by, Commissioner von Raab for a position with the U.S. Customs Service. The Commissioner assigned me to the Customs Service Academy at the Federal Law Enforcement Training Center (FLETC), Glynco, Ga., and directed me to set up the Customs firearms program. My duties, according to him, were to include testing and evaluating weapons and making recommendations to him concerning the firearms program.

I was an outsider from the beginning. Upon my arrival at FLETC, it was clear I was being kept from the flow of things, and I was assigned tasks unrelated to the Commissioner's directives. My first conflict with my supervisors at FLETC occurred while I was in this warehoused condition doing busy work, when a rifle blew up on the FLETC range. The chief of the Firearms Training Division approached me and ordered me to conduct a failure analysis of the weapon. He made it clear how he wanted this analysis to come out. However, I performed the analysis. I determined that FLETC's grossly inadequate weapons safety inspection program had contributed to the failure of the rifle. I indicated so in my report. As a result, the chief called the Customs Service Academy at FLETC demanding I be removed from the FLETC Armory. Customs obliged.

Subsequently, I was asked by the director of the FLETC Training Division, the chief's boss, to prepare written recommendations to assure no further catastrophic weapons failures. The chief instructed me not to follow through. However, later, under pressure from the director, he reversed his position. My recommendations to the director earned me a Letter of Appreciation for my work and caused FLETC to change their entire weapons safety inspection program.

A couple of months later, after recognizing additional mismanagement in the Customs firearms program at the Customs Service Academy at FLETC, I wrote a six-page letter about those programs and had it hand-delivered to the commissioner. The commissioner investigated my claims, and the director of the Customs Academy was demoted and transferred. I was reassigned under a Customs Headquarters division, but I still worked at FLETC.

This reassignment was confusing at best since my new supervisor had not been made aware of specific directions to me from the Commissioner regarding the establishment of Customs' firearms program. I told this supervisor how I had been prohibited from following through with the Commissioner's specific directions. He asked me to document what the Commissioner had instructed me to do and what had prevented me from carrying out those direc-

tions. Information copies went through the chain of command to D. Lynn Gordon, the then-Acting Comptroller of Customs; Rebecca Wallace, then-Director of Logistics Management; as well as the Commissioner. Both Gordon and Wallace were enraged by my disclosures, and Gordon ordered me to make no further disclosures to the Commissioner. Gordon is now the district director in Miami.

Another notable incident occurred during my first year on the job. I went to Customs Headquarters to help with the sale of seized weapons. Among the seized weapons were two very rare and valuable Swiss Lugar pistols, which I was told were going to Commissioner von Raab. I thought this seemed odd, but I did not say anything at the time.

While visiting FLETC several months later, Commissioner von Raab asked me, "What ever happened to the Swiss Lugars?" I replied, "I was told you got them." He said he had not. Several months lapsed before he visited FLETC again, and he asked me if I had found the Swiss Lugars. I said, "I have not been looking for them." He said, "Find them."

During my search for the Lugars, I discovered three things. One, there were no records of the Lugars ever being in Customs. Two, they were not on the Customs firearm inventory. Three, the Lugars did not show up on the sales records. I wrote a memo to the Commissioner recommending an Internal Affairs investigation.

About 2 weeks later at Headquarters, I was stopped in the hall by the director of Logistics Management Division. He said, "I understand you are looking for Swiss Lugars." My defenses went up since he should not have known about my memo to Commissioner von Raab. It turned out that he had shortstopped the memo prior to its reaching the Commissioner. He told me that one Lugar had been sold, and the other was in the possession of William Green, then-Assistant Commissioner of Internal Affairs. Green is now the District Director at Dulles Airport. He then ordered me to make no further disclosures of missing guns to anyone but himself. Later, one of the Lugars showed up in the mail.

During my search for the Swiss Lugars, I discovered that 41 other guns were missing from the sale. Per the orders of the Director of Logistics Management, I documented my findings with a memo to him. He ignored my memo and the fact that the 41 guns were missing. Subsequently, I reported these missing guns to Customs Internal Affairs. They also ignored my findings. Later yet, in 1989, I reported the missing guns and the coverup to the Office of Special Counsel.

Sometime in 1990, I learned from another employee who was about to retire at that time that Green had taken possession of 9 of the missing 41 guns in 1983. Later on in 1990, this employee provided me with a copy of the receipt Green had signed when he took possession of the guns in 1983.

On another occasion during the same timeframe in 1990, I met this employee coming from the office of the Director of Customs' National Firearms Program Staff, Joe Parker. He told me, "I have just told Parker about the Green guns." It was not until I had disclosed these facts to this subcommittee in 1991 and the subcommittee inquired about the guns that the guns surfaced.

Another incident which you might be interested in occurred in the 1984-85 timeframe. I received a property transfer document for six M14 rifles which had supposedly been transferred to the commissioner's office. When my supervisor later conducted an inventory of firearms assigned to headquarters, the M14 rifles were missing. When I checked into it, I discovered that the M14 rifles had been transferred to the Anne Arundel County Sheriff's office in Maryland. I asked both the Bureau of Alcohol, Tobacco, and Firearms and General Service Administration officials whom I knew whether they were aware of any authority for giving federally owned firearms to local law enforcement officials. They told me to get them back quick.

Anne Arundel County officials refused to return them at first. They claimed they had paid to have the M14s accurized and, therefore, were going to keep them. They supported this claim with a bill from a local Anne Arundel County gun shop. I determined the bill was fraudulent and notified my supervisor, who notified headquarters managers, including Gordon, of this. Gordon ignored my evidence and paid the bill. Anne Arundel County returned the rifles.

After the M14s had been returned, I learned that the computer had shown them as assigned to me during the time they were in Anne Arundel County. I wrote Gordon requesting an investigation. She refused.

After years of going through the chain of command and Customs Internal Affairs, trying to get management to take corrective actions with no results other than retaliation against me and cover-ups, I made a disclosure to the Office of Special Counsel. Still, nothing was done to correct the problems, and retaliation became more frequent and severe. Seeing that I was up against a brick wall, I contacted this subcommittee in an act of desperation hoping the right thing would be done.

It is obvious that Customs prefers to cover up problems and retaliate against employees who dare to expose problems rather than take appropriate corrective action. Special agents have the attitude that they are above the law and that firearms are their personal toys. Internal Affairs tips off managers when their subordinates blow the whistle, allowing the managers to cover up their wrongdoing and to harass the whistleblowers at will. These same managers seem to be rewarded with promotions, bonuses, and transfers to duty stations of their choice for going with the flow.

On the other hand, my reward for blowing the whistle and being unwilling to go with the flow was to be fired for "writing awkward sentences and redundant phrases." Customs has ruined my professional reputation and my career in a highly specialized field. Only five such positions exist in all of the Treasury Department. In addition, my health has been severely affected, and I now owe approximately \$10,000 in attorney's fees, which I incurred in defending my livelihood. Had it not been for this subcommittee's interest, I would probably still be fighting this ordeal.

That is the end of my statement, sir.

Chairman PICKLE. We thank you, Mr. Humphreville.

It is a very strong and straightforward and revealing statement, and we appreciate your cooperation.

I understand, Mr. Humphreville, that you are concerned about participating in these hearings because of a confidentiality provision in the agreement settlement, the personnel action that you brought against Customs in 1991.

I would like to make it absolutely clear for the record that I have asked you to cooperate with this subcommittee and that I am now asking—demanding that you participate in these hearings by making whatever statement that you deem appropriate and by responding fully to any and all questions put to you by this subcommittee. You certainly have made a good, strong statement of your background and your record, and I appreciate your testimony.

Now, I think many of your statements need to be commented on or answered by the next panel. I do not know that I have a lot of specific questions.

When you kept saying the director to whom you reported to ignored your advice or your recommendation, who do you mean when you say the director? What person are you talking about?

Mr. HUMPHREVILLE. In the latest round, it would be J.E. Parker.

Chairman PICKLE. His office is where?

Mr. HUMPHREVILLE. National Firearms Program Staff, Fort Benning, Ga.

Chairman PICKLE. So you are primarily making reference to Mr. Parker.

Mr. HUMPHREVILLE. Yes, sir, and where I made reference to Internal Affairs the same way.

Chairman PICKLE. Can you say again in your own words why you were fired from Customs?

Mr. HUMPHREVILLE. Well, sir, I believe it is for a number of reasons. I would like to issue or list a few.

Joe Parker was involved in procurement fraud in Customs' 9-mm pistol award. I reported this to Internal Affairs, IA—

Chairman PICKLE. Start that sentence again.

Mr. HUMPHREVILLE. Joe Parker—J.E. Parker—was involved in procurement fraud in Customs' 9-mm pistol award. I reported this to Internal Affairs, IA, in 1990.

The following was also reported to IA concerning Mr. Parker. I saw Mr. Parker remove rifle scopes from the weapons pool at Fort Benning. Subsequently, I verified that, after those scopes were removed from the weapons pool, they did not show up in the gunsmith area for several months. As a matter of fact, they showed up right before the IA investigation did come in.

I reported Mr. Parker and Mr. Pendleton, Chief of the Weapons Support Branch at the National Firearms Program Staff, for rigging weapons destructions as a show for Internal Affairs and the inspector general.

I reported Mr. Parker for authorizing Customs' gunsmiths to utilize Government labor and material to test an M1 carbine rifle owned by one of his friends, not an employee of the Customs Service.

I reported Mr. Parker for failure to report an employee violation of the 1968 Gun Control Act to Internal Affairs as required by Customs table of offenses and discipline.

I reported Parker for authorizing improper weapons inventory at FLETC in Fort Benning.

I reported Mr. Parker's false statements to Internal Affairs and that a complete weapons inventory had been conducted upon arrival at Fort Benning.

I reported Mr. Parker for authorizing his managers to remove parts from Government weapons for installation on their personal weapons. These personal weapons are prohibited from use in Customs by firearms policy.

At this time, I also reported Mr. Conger, then-Deputy Director of the National Firearms Program Staff, Mr. Parker's assistant, for violation of the 1968 Gun Control Act. Conger had ordered the installation of a 14-inch shotgun barrel, converting it to an illegal weapon per this Act. I reported Mr. Conger for diversion of Government ammunition.

Would you like me to continue, sir?

Chairman PICKLE. Yes.

Mr. HUMPHREVILLE. The aforementioned disclosures to Internal Affairs Agents Reed and Greenstein was followed within hours by two events. One, I was threatened by a special agent for naming him in the disclosure, and, two, Assistant Regional Commissioner, Internal Affairs, Friedman ordered an investigation of me as to whether I had graduated from college.

The charge was that I had not and, thus, fraudulently obtained Customs employment by falsification of my 1982 job application to Customs. I reported these events to Mr. Reed and Mr. Greenstein, but no action was taken.

As the subcommittee can see, the Customs firearms programs, Internal Affairs, and Office of Enforcement have major problems.

My first run-in with Mr. Parker was over a CS1 revolver contract. Mr. Parker is the Director of the National Firearms Program Staff, my former boss. In 1987, I had learned of a design flaw in the Customs CS1 revolver from my Secret Service counterpart. This flaw led to a nationwide recall of the CS1 and other Smith & Wesson L-frame revolvers.

I also learned of procurement fraud in the CS1 program and reported this to management and Internal Affairs. The previous director of the firearms program was removed, and Mr. Parker took over that post.

I was ordered by the Commissioner to go to Smith & Wesson to assure a contract compliance and proper retrofit, and proofing requirements were carried out. While on this assignment, I discovered more procurement fraud and reported this to Mr. Parker. I did not report this to Internal Affairs, because during my first face-to-face meeting with Mr. Parker, he told me he knew I was talking to Internal Affairs. He gave me a direct order not to make any further whistleblowing efforts to either Internal Affairs or the Commissioner without his prior knowledge and concurrence.

Mr. Parker threatened me with a desk audit and downgrade if I protested. To use his words, "A desk audit giveth, and a desk audit taketh away."

In the course of another investigation, Special Agent Tom Flynn questioned me. During this session, I revealed to Mr. Flynn that I had made a previous disclosure to Internal Affairs and had been ordered to keep my mouth shut. Mr. Flynn called Assistant Regional Commissioner, Internal Affairs, Friedman in Miami and told

him I was not cooperating with him because another agent had given me a gag order.

Mr. Flynn told me Assistant Regional Commissioner, Internal Affairs, Friedman called William Green, Assistant Commissioner for Internal Affairs, and advised him that I was making disclosures of missing weapons. I was then released from the gag order. At that time, I blew the whistle on hundreds of missing guns which were charged to me in the computer system.

Included in this list were those guns later found to be in Mr. Green's possession. I had information that these guns and numerous others had been passed out to Customs' top managers on the third floor. This disclosure was a direct violation of Mr. Parker's orders to make no further disclosures.

I believe that Messrs. Pendleton, Conger, and Parker, my former bosses, fired me in May of 1991 to get even with me for blowing the whistle on them.

Chairman PICKLE. That completes your statement then about why you were fired?

Mr. HUMPHREVILLE. Yes, sir.

Chairman PICKLE. I would say that you have listed a number of apparently valid reasons, assuming the correctness of your statements.

One of the statements you made that you gave some information about these violations to two gentlemen, one of them was Mr. Weinstein. Can you tell me in what instance that was?

Mr. HUMPHREVILLE. No, sir. That was Special Agents Reed and Greenstein, Internal Affairs, Miami. They were not from the inspector general—

Chairman PICKLE. I misunderstood you then.

Mr. HUMPHREVILLE. OK. Yes, sir.

Chairman PICKLE. Now, you then were relieved of your duties at Customs. You were fired.

Mr. HUMPHREVILLE. Yes, sir.

Chairman PICKLE. What date? When were you fired?

Mr. HUMPHREVILLE. May of 1991, sir.

Chairman PICKLE. Now, May of 1991, was that before our subcommittee hearing during that time or was it right after our subcommittee hearing?

Mr. HUMPHREVILLE. I am not sure of what hearing you are referring to, sir.

Chairman PICKLE. We had a hearing in May or June in that general territory, but it had no connection with our hearing. You were just fired—

Mr. HUMPHREVILLE. Not that I know of, sir.

Chairman PICKLE [continuing]. In May of 1991.

Mr. HUMPHREVILLE. Not that I know of, sir.

Chairman PICKLE. All right. Then what happened to you after that?

Mr. HUMPHREVILLE. I obtained counsel. We went forward to the Merit Systems Protection Board in Atlanta and asked for a stay of the firing order, and the stay was granted.

Basically, my attorney, Mike Riselli, said that this case was the worst case of retaliation that he had ever seen in his practice as an attorney specializing in Government Civil Service matters.

Based on the Merit Systems Protection Board order, I would say that the judge probably agrees with Mr. Riselli.

Chairman PICKLE. Can you tell this subcommittee what the Merit Systems Protection Board judge said when he ordered your—read the statement.

Mr. HUMPHREVILLE. Basically, he said that it was obvious that I was a whistleblower, that the Secretary of the Treasury had identified me as a whistleblower before I was fired, and that the actions of Customs managers were suspect, I believe was the terminology.

Chairman PICKLE. When the inspector general had made its investigations, were you surprised at any of the findings of the Treasury IG audit?

Mr. HUMPHREVILLE. Well, no, sir. It confirms just a few of the things I have been reporting for years. However, it really represents only the tip of the iceberg of what actually goes on in Customs.

I also believed—I also believe that NFPS personnel lied to the inspector general during the course of their audit.

Chairman PICKLE. Do you think that the root causes for the firearms program problems discussed in the Treasury's IG audit—do you think was the root cause of these problems?

Mr. HUMPHREVILLE. Yes, sir. Basically, it appears that the Customs would rather cover up than fess up.

A prime example of when the Miami seizure shipment came up short of a 60mm mortar and several other items, Joe Parker said if all the other items could be found except the 60mm mortar tube, he would get a piece of pipe and stamp a serial number on it. In other words, he would make one.

Chairman PICKLE. Well, why do you think these problems continued to exist today, when at that time you were able to identify and report them as early as 1984, if I read your testimony correct, even though you had been at Customs at that time only about 1 year?

Mr. HUMPHREVILLE. Yes, sir. Well, I think there are several reasons for this, sir.

Customs managers want to hide the fact that firearms accountability is, at best, poor. Customs managers know that numerous instances have occurred where their friends have taken Government weapons when they retired.

The inspector general's audit did not cover all the ones that I know about.

Customs managers know that weapons accountability is or, rather, should be high priority.

Commissioner von Raab in 1983 told me that weapons accountability was poor, and he wanted it cleaned up fast. From what I saw, the Commissioner's desire for weapons accountability was only shared by him and me.

The present accountability efforts are, at best, a crash-and-burn program. Normally, only two or three personnel are assigned the monumental effort. These employees, for the most part, are temporary hires. Knowing weapons with the in-depth knowledge to recognize improper combinations is an extremely rare talent.

Mr. McKenney retired, and I was fired, and that only leaves one employee that I believe can recognize such improper combinations just by reviewing the paperwork.

Chairman PICKLE. When you say it is one employee, do you mean at the National Firearms office?

Mr. HUMPHREVILLE. Yes, sir, one that has a very in-depth knowledge of all types of weapons.

As further evidence of the crash-and-burn management style, the IG identified no on-site weapons pool inventory had been conducted since 1990. Yes, sir, and the only reason the 1990 audit was conducted was because of the IGs turning up the heat.

When the crash-and-burn programs hit, other special agents, inspectors, and, basically, everyone available is asked to enter information in the computer. Again, expertise is short; in computer language, garbage in, garbage out.

I would imagine that a true panic situation is going on at this time to verify the inventory. I doubt it will be successful.

The term "stolen" has a very sensitive nerve in Customs. They prefer to say "unverified." When I told Internal Affairs that over 300 guns were assigned to me in the computer, I used the logic: I am supposed to have it. I never saw it. You do not have any records I signed for it. Then it is missing, presumed stolen until someone finds it.

Chairman PICKLE. Why were they assigned to you? Why would not they be assigned to some other person? Were you the one official that would normally be assigned these guns?

Mr. HUMPHREVILLE. Originally, at the Federal Law Enforcement Training Center, I was receiving guns from the field to be turned in as excess weapons. The directives that were sent out are when the guns are transferred to me; their records would indicate the guns were transferred to me. However, 300 more guns, thereabouts, showed up on my Social Security number that I have not received.

So the field said that they sent them to Humphreville, and I said, "Hey, guys, I never got them."

Chairman PICKLE. All right.

Mr. HUMPHREVILLE. Nobody did anything about it.

Chairman PICKLE. All right. Go ahead.

Mr. HUMPHREVILLE. A large number of these guns remained in my Social Security number for years. They were known as the "Humphreville guns." I can only surmise that these were continually left on with a slim hope a document would surface that I had signed for one. In fact, I was told that management had removed me from the FLETC armory in 1986 with only a few minutes notice, hoping to find a missing gun for which they could hold me accountable. However, they conducted an audit immediately after I was removed, which proved to be 100 percent accurate.

The final reason is, I believe, the most accurate reflection of the real Customs world. When you have total weapons accountability, your toy chest has been locked and set in concrete. Your personal Christmas wish list has just been canceled.

Or, as one knowledgeable Customs special agent related a wisdom to me, you can put two tables in a room, fill one with money, the other with guns, and allow a bunch of special agents into the room. You could then announce that no inventory of either table was known and turn the lights out for 30 seconds and then clear the room. When you check the tables, the money table will have

every last dollar in place. The guns and the table holding the guns would be gone.

Chairman PICKLE. Well, I appreciate your statement on that.

The Chair wants to recognize Mr. Brewster for any questions at this point.

Mr. BREWSTER. Thank you.

Mr. Humphreville, has there been a policy at Customs concerning assigning a weapon to an officer when he comes on duty? Does it stay with him the entire time that he works for Customs? Do you have knowledge of that, or should I save that?

Mr. HUMPHREVILLE. Basically, that is the way the system is set up, if the accountability does not get lost in the paperwork shuffle and they wind up taking it home with them when they retire.

Mr. BREWSTER. So you are saying when an officer leaves employment, no one asks for his duty firearm that you have been assigned during this time?

Mr. HUMPHREVILLE. I cannot say that in all cases, but I know of several other cases that the inspector general was not aware of, where in 1989 timeframe, I believe it was, four other special agents were found to have taken their guns home with them. Instead of reporting it to Internal Affairs, they quietly called the folks and had them send them in rather than report them—I would call them thefts—to Internal Affairs.

Mr. BREWSTER. On confiscated weapons, some are assigned out to officers. Am I correct?

Mr. HUMPHREVILLE. They are converted over to Government ownership, and then that has been the policy in the past, sir.

Mr. BREWSTER. Ammo, also?

Mr. HUMPHREVILLE. Yes, sir.

Mr. BREWSTER. What is the procedure? Who determines who gets what? How is that conducted?

[No response.]

Maybe I am asking the wrong person these questions. I will save that one.

In your testimony, you had 41 guns that were missing on one of the checks there, and some were returned. What about the rest of them? How many were returned? Do we have any idea?

Mr. HUMPHREVILLE. No, sir. I do not even know if my list of those 41 guns was made available to the inspector general to check the records. They might still be missing as far as I know.

Mr. BREWSTER. So, to your knowledge, the 41 guns were not returned. I think it said in here that a fellow named Green did return some that he had?

Mr. HUMPHREVILLE. Yes, sir. After this subcommittee started their investigation, the guns, miraculously, appeared.

Mr. BREWSTER. Do any of the agents have privately owned weapons that they carry in addition to their weapons that are assigned to them?

Mr. HUMPHREVILLE. Yes, sir.

Mr. BREWSTER. Is that according to policy?

Mr. HUMPHREVILLE. Yes, sir.

Mr. BREWSTER. So an agent can carry any kind of weapon that he wants to privately buy?

Mr. HUMPHREVILLE. The policy says only certain types of weapons. What I have seen in the field covers a variety of different things. In other words, what they do not know will not hurt them. "I am carrying it, and nobody knows about it."

Mr. BREWSTER. In your testimony, too, you talked about numerous rifle scopes being removed from rifles that were in inventory, and what about the scopes? I know you probably don't know what happened to them, but, in your opinion, were they sold or were they kept? Were they someone's Christmas wish list, or do you have any understanding or idea of that?

Mr. HUMPHREVILLE. To my knowledge, they were not sold, sir.

I saw Mr. Parker walking out of the arms pool with them in a box. It was approximately 10 scopes, and I checked on two follow-on occasions down in the armory of the weapons parts storage area, and the scopes had never made it from the armory to the gunsmith area. What was done with those, I am estimating, 6 months before they were turned in, I cannot say, sir.

Mr. BREWSTER. The statement you made is certainly strong and has some very strong direct allegations, and you feel comfortable with the statement as you made it?

Mr. HUMPHREVILLE. Yes, sir.

Mr. BREWSTER. Thank you.

Chairman PICKLE. Mr. Hancock?

Mr. HANCOCK. Thank you, Mr. Chairman.

This whole thing—that, I guess, the investigation started quite some time ago, and I guess we are revisiting it now. I was not a member of this committee when it was started, but the more I see of what we are talking about here, I would just like to ask the question, Mr. Humphreville. How many times, from the time you got into the assignment with Customs, was it laughingly said, maybe, or, maybe, seriously said, the statement, "Go along to get along"? You probably heard that a few times.

Mr. HUMPHREVILLE. Yes, sir. I have heard that and "screw up and move up."

Mr. HANCOCK. You know, I was in the service and, at one time, was an officer, a supply officer, and I had charge of a pretty good inventory of weapons. It is very difficult for me to understand. It looks to me like an almost total lack of accountability, and I would like to just get an opinion.

I know the answer here, obviously, is an answer that it is not according to the law. But what would be wrong with requiring Customs agents to buy and own their own weapon?

Mr. HUMPHREVILLE. To my knowledge, I would have no problem with that, sir. I believe it ought to be part of the law that personnel could purchase their weapons upon retirement.

Mr. HANCOCK. Well, even before retirement.

Mr. HUMPHREVILLE. If they wanted to, yes, sir. I would have no problem with that, sir.

Mr. HANCOCK. Would not that solve a lot of inventory problems, for instance, with the 9-mm automatics? Say, "Look, you are authorized to buy this weapon as part of your function. It is your gun. You keep it. You take care of it," and you will not have to worry about somebody stealing it then from the Government, do you?

Mr. HUMPHREVILLE. Yes, sir. That would be correct, sir.

Mr. HANCOCK. And I certainly do not see anything wrong, Mr. Chairman, with making it legal for these guys. I mean, that would remove a little incentive to take them.

Chairman PICKLE. We are talking about a philosophical question, but, I think, one of the previous witnesses, Mr. Weinstein, I asked him the question: Is an agent allowed to use his own gun, wear his own gun? And I had the understanding that he could not do that.

Mr. HANCOCK. That is how I would understand it.

Chairman PICKLE. Now you are saying, if they were to buy it, then they could walk—

Mr. HUMPHREVILLE. Something may have changed—excuse me.

Chairman PICKLE. You were going to say that, if he bought it either as retired or even on duty, then he would be coming on to work with his own gun?

Mr. HUMPHREVILLE. Yes, sir.

Chairman PICKLE. So I think we are talking about a policy. Whether it is good or bad, I do not know what the answer is to that. But I think the policy now is that they are not supposed to bring their own weapon.

Mr. HANCOCK. I think that is exactly right, Mr. Chairman. I think the law and the regulations basically say that that is not happening, and I was asking Mr. Humphreville if, in fact, we have the ability to change that regulation, and I was asking him if, in his opinion, that might be worthwhile to look into to where we would allow these agents to purchase their own weapon or at least purchase that weapon when they retire.

I can understand, and I think you can, that if you have carried a weapon, a side arm, for 20, 25 years, you kind of get attached to it. Why not solve the problem with them stealing them by allowing them to buy it? That way, it makes it legal.

Here, again, we could do that through regulation, through this committee or somebody here in the House. But let's get back to it. If you cannot solve the problem one way, maybe we can solve it another way.

How did your supervisors actually find out that you had made these allegations? How did that come to light?

Mr. HUMPHREVILLE. They were told by Internal Affairs and the Office of Special Counsel.

Mr. HANCOCK. Do you think because a certain individual had previously worked for Internal Affairs that that possibly was a source of the information?

Mr. HUMPHREVILLE. Yes, sir. That individual, Mr. Parker, had indicated to me on several occasions that everyone in Internal Affairs was a buddy of his.

Mr. HANCOCK. Were there any statements made that maybe some of the people in Internal Affairs also had weapons that were unaccounted for?

Mr. HUMPHREVILLE. No, sir, I do not remember hearing anything like that, but I would not be surprised.

Mr. HANCOCK. You did not hear that a man by the name of Green had missing firearms in his possession?

Mr. HUMPHREVILLE. Excuse me, sir. When you said Internal Affairs, I thought you meant field agents.

Yes, sir. Mr. Green, per the records, did have nine guns in his possession that he had not accounted for in any of the weapons inventories.

Mr. HANCOCK. And he was the former head of Internal Affairs?

Mr. HUMPHREVILLE. Yes, sir.

Mr. HANCOCK. After this information, after you found out that your name had been pointed out, from the time you first start initiating something, how long did it take when you first started blowing the whistle before you found out that this was not being particularly kept confidential? How many months, weeks, or days?

Mr. HUMPHREVILLE. I did not know Mr. Green had them in his possession until 1990. I knew I had reported the guns missing as early as 1984, but I did not know Mr. Green had the guns in his possession.

These guns were missing, and then, in 1988, I had an interview with Internal Affairs Agent Flynn. I gave him the serial numbers of all the missing guns, and he indicated he was going to start an investigation. Since 1988 when I talked to Mr. Flynn, I am still waiting for that investigation to start, sir.

Mr. HANCOCK. I understand that the individual that you believe violated, shall we say, a confidence, more or less, of Mr. Parker, I understand that he received promotions, bonuses, after this all came about and after they knew that something was wrong in the inventory of these weapons?

Mr. HUMPHREVILLE. Yes, sir. Not only did he receive promotion and bonuses, other managers down the line that helped in my removal were also promoted and given bonuses.

Mr. HANCOCK. Is he still associated with the Customs Service? To the best of your knowledge, do you know?

Mr. HUMPHREVILLE. Mr. Parker?

Mr. HANCOCK. Yes.

Mr. HUMPHREVILLE. Yes, sir. He is still the director of the National Firearms Program Staff at Fort Benning, to my knowledge, sir.

Mr. HANCOCK. One final question and this is an opinion question. Actually, we are getting into a lot of that, too. But do you believe that Commissioners Hallett or von Raab ever received accurate information about the firearms problems from their manager?

Mr. HUMPHREVILLE. No, sir, for this reason. I do not believe Commissioner Hallett did based on what I saw while associating with Commissioner von Raab. I am sure he was given lies and half-truths when I was absent.

I told him like it was. That is why managers wanted to keep me away from him.

Mr. HANCOCK. One final question, do you know whether anybody that ever certified, signed the certification of inventory which was later proven to be false, was ever reprimanded, terminated, or what have you, to the best of your knowledge? Was anybody ever chastised even, a letter for their file, that they had falsely certified an inventory?

Mr. HUMPHREVILLE. No, sir. I have never heard of that instance in the Customs Service since I have been there.

Mr. HANCOCK. You are aware of what would happen for a U.S. Air Force officer if, in fact, he was charged or was accused of that?

If they came back and made an inventory and it was not there, it would be a court-martial offense, Mr. Chairman. I do not understand how we—I mean, we are getting into this constantly that the management does not have any authority over the people that they have working for them.

It would not take me very long as a private businessman. If one of my employees, or even here in the U.S. Congress if one of my people working downstairs certifies and signs a statement that this is what is fact, it sure would not take me very long to take care of that situation.

Thank you, Mr. Chairman.

Chairman PICKLE. Thank you, Mr. Hancock.

Thank you, Mr. Humphreville. I think that concludes the questions we want to ask of you. We appreciate your testimony very much.

Mr. HUMPHREVILLE. Yes, sir. I appreciate being here, sir, and I would like to commend this subcommittee for their work and especially your staff for what they have done to uncover this.

Chairman PICKLE. We appreciate your comments.

Now we will ask the next panel, representatives of the U.S. Customs Service, Michael Lane, John Hensley, Joseph Parker, and Debra Spero, if they will, please, come to the witness table.

We have Michael Lane, the Acting Commissioner of the Customs office—Mr. Lane—and we have John Hensley, the Assistant Commissioner for Enforcement—Mr. Hensley—Joseph E. Parker, Director of National Firearms Program Staff; and Debra Spero, Acting Associate Commissioner, Office of Organizational Effectiveness.

[Witnesses sworn.]

Chairman PICKLE. Now we will receive testimony of the statement from Mr. Michael Lane, Mr. Hensley, Mr. Parker, and Mr. Spero.

Mr. Lane.

STATEMENT OF MICHAEL H. LANE, ACTING COMMISSIONER, U.S. CUSTOMS SERVICE, ACCOMPANIED BY JOHN E. HENSLEY, ASSISTANT COMMISSIONER FOR ENFORCEMENT; J. EDWARD PARKER, DIRECTOR, NATIONAL FIREARMS PROGRAM STAFF; AND DEBRA SPERO, ACTING ASSOCIATE COMMISSIONER, OFFICE OF ORGANIZATIONAL EFFECTIVENESS

Mr. LANE. Thank you, Mr. Chairman. Thank you for this opportunity to testify today on Customs firearms program.

As perhaps the most visible law enforcement agency in the Federal Government, Customs recognizes the need to control our firearms.

As you know, over 9,000 Customs officers carry firearms. We have over 20,000 weapons in our inventory. In the United States, since the turn of the century, over 2 million handguns had been manufactured or imported into the United States, and each year about 10,000 people are killed on American streets with handguns. We recognize the importance of controlling our handguns, and, to our knowledge, no lost, stolen, or unaccounted for firearm has ever been used in a violent crime.

No lost, stolen, or unaccounted for Customs firearm has ever been used in a violent crime to our knowledge. We are happy to

say that, and we would like to keep it that way by doing a good job in controlling our firearms.

Last week, in his State of the Union Address, the President said in his speech he hopes you pass the Brady Bill. We do, too.

You have asked us to comment on four issues, four specific issues, including: the IG audit, Customs' failure to identify these problems ourselves, how this audit relates to other Customs management problems, and what role the Office of Organizational Effectiveness will play in the future in ensuring that these problems are corrected. I would like to answer these questions in turn.

First, the IG audit. There are 16 findings in the IG audit. We have accepted every recommendation, each of these 16, made by the IG.

Among the major recommendations that we are now implementing are these. Number one, the Weapons Inventory Control System is now undergoing a major systems redesign. Number two, physical inventory procedures and verification procedures at the National Firearms Program Staff have been greatly improved. Number three, a memorandum to all managers and supervisors emphasizing adherence to policies and procedures has been drafted. Number four, beginning in May, the National Firearms Program Staff will institute new procedures for verification of the accuracy of data input by field units. Number five, the firearms destruction procedure has been changed to require separation of duties. Number six, a Modernization Act provision that would permit Customs to retain general order firearms for in-service use has been proposed.

As I mentioned, Mr. Chairman, we are implementing all of the recommendations of the IG. Those are just highlights of those recommendations.

You have also asked why Customs did not identify and act on those problems themselves. Well, to some extent, I think that we did address some of these problems as early as January 1988. The problem, I believe, was that our solutions to them were probably not comprehensive enough, were piecemeal, not timely, and not tracked.

For example, we should have recognized that the Weapons Inventory Control System needed a full redesign. Instead, we tried to patch it and fix the existing system, when I believe now it would have been more appropriate to scrap it and start over.

But other actions were taken. The staff to control these weapons was substantially expanded. We relocated at Fort Benning. Standard operating procedures were developed, and national inventories were taken. In retrospect, more should have been done, and it should have been done more timely, particularly as it pertains to the redesign of the overall tracking system.

You have also asked how does this audit relate to other management problems. We have given this a lot of thought. In reviewing this, I guess it would be easy to say, "Well, it does not. This is an independent action." But I really think that in reviewing the environment in which we were operating over the past 10 years, it does relate to a lot of the environment in Customs. It was the same environment and context of the firearms program.

In that timeframe, from 1980 to present, Customs collected about \$200 billion in revenue, seized almost a million pounds of cocaine,

automated both our commercial and enforcement systems, established a program to protect intellectual property rights, reemphasized efforts to protect American industry and enforce sanctions against many countries, including Iraq and Libya.

These things were a matter of choice. Everything could not get equal weight. We chose to emphasize those programs that I outlined above. The things that suffered among them were the fire-arms program, some of our administrative systems, our internal controls, our personnel systems, our support systems. With choice, we recognize, comes consequences; thus, these hearings today. But we did make those choices. I was part of that decisionmaking apparatus, and, in retrospect, I believe overall we generally made the right decisions, but, in regard to some of them, you would probably wish you had it to do over again.

You have also asked what role will the Office of Organizational Effectiveness play in the future in correcting these problems? The Office of Organizational Effectiveness will have an oversight role to me in the interim before a new Commissioner is appointed. Their role will be to ensure that all the actions taken by all the offices on all the findings from this committee or the inspector general are implemented.

So, in summary, Mr. Chairman, we are taking ownership and responsibility for this system. We are cooperating with the inspector general to ensure that the changes are made. We are cooperating internally to develop the new systems and procedures, and, finally, we are providing oversight through the Office of Organizational Effectiveness to ensure that all of the actions are taken.

Thank you, Mr. Chairman.

[The following questions and answers were subsequently received:]

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COMMITTEE ON WAYS AND MEANS

U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, DC 20515

SUBCOMMITTEE ON OVERSIGHT

March 11, 1993

Mr. Michael Lane
Acting Commissioner
U.S. Customs Service
1301 Constitution Avenue, N.W.
Washington, D.C. 20229

Dear Mr. Lane:


Thank you for appearing at the Subcommittee's hearing on February 23, 1993, to discuss the serious problems plaguing Customs' firearms program. I understand that you are now aware of the nature and extent of the problems and that Customs will correct them in the near future.

Enclosed are a number of additional questions that the Subcommittee needs answered in order to complete the hearing record. Please furnish your responses no later than Thursday, April 1, 1993.

In addition, I would like to reiterate that the Subcommittee needs copies of all Internal Affairs reports relating to allegations made by Mark Humphreville. As I stated at the hearing, this should include reports of investigations on Joe Parker, Dick Conger, and Ralph Pendleton. The Subcommittee also needs copies of reports relating to any Internal Affairs investigations of Mark Humphreville.

If you have any questions regarding the Subcommittee's hearing or this request for additional information, please contact Thomas K. Arnold, Assistant Counsel, at 225-5522.

Sincerely,


J. J. Pickle, Chairman
Subcommittee on Oversight

JJP/taw
Enclosure

cc: Ronald K. Noble
Department of the Treasury

QUESTIONS FOR THE RECORD
SUBCOMMITTEE ON OVERSIGHT
COMMITTEE ON WAYS AND MEANS
HEARING ON THE INABILITY OF THE U.S. CUSTOMS SERVICE
TO ACCOUNT FOR ITS FIREARMS

1. Identify and briefly describe all the types of firearms which are regularly issued to Customs officials.
 - a. How many of each of these firearms are currently in Customs inventory?
 - b. Under what circumstances are other types of firearms (i.e., non-standard) issued to its officials by Customs?
 - i. Why does Customs have any "non-standard" firearms in its inventory?
 - ii. How many "non-standard" firearms does Customs have in its inventory?
 - iii. What are these "non-standard" firearms used for?
 - c. Are there any fully-automatic firearms in Customs' firearms inventory?
 - i. Why?
 - ii. Under what circumstances are Customs officials permitted to carry fully-automatic firearms?
 - iii. Under what circumstances are Customs officials permitted to use fully-automatic firearms?
 - iv. Are fully-automatic firearms subject to any unique inventory controls?
 - d. What firearms, not identified above, are approved for use by Customs officials?
 - e. Are Customs officials permitted to carry, while on duty, firearms not approved by Customs?
 - i. Under what circumstances is this permitted?
 - ii. Why?
 - f. Are Customs officials permitted to carry, while on duty, privately-owned firearms?
 - i. Under what circumstances is this permitted?

- ii. Why?
2. How many Customs officials are permitted to carry firearms?
 - a. How many are inspectors?
 - b. How many are special agents?
 - c. Specify the positions (e.g., district directors) of any other Customs officials who are permitted to carry firearms.
 - i. Why are any of these officials authorized to carry firearms?
 - ii. Why are any Customs managers or administrators authorized to carry firearms?
 - d. Why are so many Customs officials authorized to carry firearms?
 - e. Are different firearms approved for use by different categories for Customs officials?
 - f. For each category of Customs officials (e.g., inspectors, special agents, district directors, assistant commissioners), describe the perceived threat that justifies their being armed.
3. Why is the firearms program within the Office of Enforcement?
4. What is Customs' policy regarding the use of forfeited or general order firearms and ammunition?
 - a. How many Customs officials have been disciplined for misuse of forfeited or general order firearms or ammunition? Briefly describe the nature of each disciplinary action.
 - b. On what date was the former Deputy Director of the NFPS put on leave without pay for having misappropriated Customs ammunition? On what date was he transferred to Chicago?
 - c. Under what authority were two forfeited firearms presented to former Deputy Commissioner Alfred De Angeles upon his retirement?
5. What range of disciplinary actions are available to Customs managers when Customs officials falsely certify a firearms inventory?

- a. How many falsely certified firearms inventories is Customs aware of?
 - i. How many different Customs officials have falsely certified firearms inventories?
 - ii. What discipline has been imposed on those officials?
 - iii. When was that discipline imposed?
 - iv. How many of those officials have been promoted or otherwise rewarded since they falsely certified a firearms inventory?
 - b. Using what form or process are firearms inventory certifications made? Provide copies of whatever form(s) or documents Customs uses as certifications to ensure the accuracy of firearms inventory information submitted to the NFPS by other Customs organizational units.
6. Specify what actions Customs plans to take, or has taken, to correct the firearms program deficiencies identified in the Treasury Inspector General's February 22, 1993 report.
- a. When do you expect each of those actions to be completed?
 - b. What organizational unit is responsible for completing each of those actions?
 - c. What role does the Office of Organizational Effectiveness play in correcting these firearms program problems?
 - d. All of the findings of the Inspector General's report correspond to issues Mr. Humphreville has been trying to draw attention to since 1983. How does Customs account for nothing being done in response?
7. What is Customs' policy regarding NFPS employees working on privately-owned firearms in official Customs facilities and installing Customs-owned parts on privately-owned firearms?
8. What is Customs' policy regarding former Customs officials converting their Customs firearms to personal use upon their retirement or separation from Customs?
- a. Does Customs have authority to allow former Customs officials to keep their Customs firearms?
 - b. Are you aware of any Federal agency with such authority?
 - c. Do you think that Customs should have such authority?

9. During the hearing, the Acting Commissioner, Mr. Lane stated that he was going to send a memorandum to Customs field managers regarding their responsibility to account for firearms assigned to them, to their organizational unit, or to their subordinates. Provide the Subcommittee with a copy of that memorandum.
- a. How will Customs hold field managers accountable for compliance with Headquarter's firearms policies?
 - b. What range of disciplinary actions will Customs consider taking against field managers if they intentionally do not comply with Headquarter's firearms policies?
 - c. What range of disciplinary actions will Customs consider taking against noncompliant field managers who claim to have been unaware of Headquarter's firearms policies?
10. During the hearing, the Assistant Commissioner for Enforcement, Mr. Hensley, maintained that the process to terminate Mark Humphreville had only been "initiated" in 1991. That statement appears to be inconsistent with the attached documentation. (See Attachment 1) How does Customs reconcile this apparent inconsistency?
- a. If Mr. Humphreville had not filed with the Merit System Protection Board (MSPB) in June 1991, requesting a stay, would Customs have had to take any additional action in order to completely and fully terminate Mr. Humphreville?
 - b. Mr. Hensley also maintained that Mr. Humphreville had resigned and later retired from Customs. However, according to the attached letter from Mr. Humphreville's attorney, Mr. Humphreville is still employed by Customs and is on workmen's compensation. (See Attachment 2) How does Customs reconcile those apparently conflicting positions? Supply documentation supporting Customs' position.
 - c. At the time Mr. Hensley terminated Mr. Humphreville, did he consider Mr. Humphreville to be a whistleblower?
 - i. If not, why not?
 - ii. Did Mr. Hensley consider the possibility that Messrs. Parker, Conger, and/or Pendleton might be retaliating against Mr. Humphreville at the time that they requested Mr. Humphreville's termination?
 - iii. What evidence did Mr. Hensley consider in this regard?

- iv. Can Customs reconcile Mr. Hensley's position with that of former Commissioner von Raab and the other former Customs officials who wrote to the Office of Workers' Compensation Program in support of Mr. Humphreville's claim? (See Attachment 3)
 - v. What role would the Office of Organizational Effectiveness have played in this matter had that office been in existence at the time?
 - c. During the hearing, Mr. Hensley stated that Mr. Humphreville's allegations regarding malfeasance by Mr. Parker and other NFPS employees had been investigated by the "inspection side" of the Treasury Inspector General's Office. Mr. Hensley went on to state that the report which Customs had received from the IG regarding those allegations concluded that those allegations were "unsubstantiated". Provide a copy of the IG report to which Mr. Hensley was referring, and explain how it supports Mr. Hensley's statement.
 - i. Did Mr. Hensley rely exclusively on this IG report when determining the validity of Mr. Humphreville's allegations regarding the NFPS and the Customs firearms program?
 - ii. What other evidence did Mr. Hensley consider regarding Mr. Humphreville's allegations?
 - iii. At the hearing, Mr. Hensley testified that he had "checked the records" and found no evidence that Mr. Humphreville's allegations had ever been "communicated" to himself or to the Office of the Assistant Commissioner for Enforcement. However, the attached documentation seems to be in conflict with that testimony. (See Attachment 4) How does Customs reconcile this apparent conflict?
 - e. After Mr. Humphreville was reinstated pursuant to a MSPB order, what duties and responsibilities was he assigned? How did those duties and responsibilities compare to those that he was assigned prior to being terminated in May 1991?
 - f. What office space and office equipment was Mr. Humphreville provided after he was reinstated pursuant to the MSPB order? How did that office space and equipment compare to the office space and equipment that he was provided prior to being terminated in May 1991?
11. Does Customs officially sanction competition shooting teams?

- a. Whose firearms and ammunition do those teams use?
 - b. Are members of those teams authorized to use Customs firearms or ammunition for any activities relating to competitive shooting?
 - c. Describe when and why those teams are authorized to use Customs firearms or ammunition for competitive shooting.
 - d. What authority does Customs possess with regards to competition shooting teams?
12. Concerning Customs' accountability for narcotics and other controlled substances in its possession:
- a. What procedures and processes does Customs use?
 - b. Have these procedures and processes been audited or reviewed by Customs' Office of Integrity Management, the Treasury Inspector General, the General Accounting Office, or any other outside entity?
 - c. Who performed those reviews?
 - d. Did they issue reports? If so,
 - i. When were those reports issued?
 - ii. What are the titles of those reports?
13. The Treasury Inspector General found that the design and development of Customs' Weapons Inventory Control System violated Department of the Treasury Information Resource Management (IRM) policies (i.e., Treasury Directive 84-01, Systems Development Life Cycle, and Treasury Directive 85-02, Security and Access Control.) Provide the names of the Customs employees who were involved in designing and developing the WICS system, including both WICS I and WICS II.
- a. Which of those employees was responsible for ensuring compliance with Treasury's IRM policies?
 - b. Why did Customs' internal IRM processes fail to identify or address the design faults found by the Treasury Inspector General?
14. The Treasury Inspector General found that Customs officials are carrying firearms to their overseas duty stations without properly documented notification and approval.
- a. Under what authority are Customs officials permitted to carry firearms overseas?

- b. What is Customs' practice regarding carrying firearms in foreign countries?
- c. Does Customs have any formal agreements with host countries regarding the carrying of firearms?
 - i. If so, for which countries?
 - ii. What is the nature of those agreements?



DEPARTMENT OF THE TREASURY

U.S. CUSTOMS SERVICE

WASHINGTON, D.C.

4/27/91 PER-OM:H:L:R TB

Mark R. Humphreville
 Equipment Specialist (Ordnance)
 U.S. Customs Service
 National Firearms Program Staff
 Fort Benning, Georgia 31905

Dear Mr. Humphreville:

By letter dated April 22, 1991, you were advised of a proposal to remove you for performance reasons from your position as Equipment Specialist (Ordnance), GS-1670-13 in the Office of Enforcement, National Firearms Program Staff, Fort Benning, Georgia. This letter is a notice of my final decision in this matter.

In arriving at my final decision, I have given full and careful consideration to the entire case file, including the reasons and specifications cited in the above-mentioned letter and material and documents which accompanied the letter. I have also considered your written reply dated May 3, 1991, in which you again raised the issue of retaliatory actions by your supervisors. Your written reply failed to provide any evidence to support these allegations, or to refute the reasons for your removal based on specific instances of unacceptable performance set forth in the proposal letter.

On December 14, 1989, you were placed on your first Performance Improvement Plan (PIP), which was designed to provide you with the opportunity to demonstrate the ability to perform at the Fully Successful level. At the time, your performance was assessed at the Unacceptable level with regard to Critical Element #1, "Firearms Maintenance and Issue," Critical Element #2, "Firearms Inventory Control," Critical Element #3, "Ordnance Research Projects," and Critical Element #4, "Liaison."

During the initial 60 work days of your PIP, your performance improved to the Marginal level in Critical Element #1, "Firearms Maintenance and Issue", and to the Fully Successful level in Critical Element #2, "Firearms Inventory Control." As a result of your demonstrated improvement in the two referenced areas the PIP was extended for an additional forty (40) work days to allow you further opportunity to demonstrate your ability to perform at least at the Fully Successful level in all Critical Elements. By the close of the PIP extension period, you had failed to demonstrate your ability to perform at least at the Marginal level in all Critical Elements. For the period from December 14, 1989, to July 19, 1990, your performance remained at

an Unacceptable level in two Critical Elements, specifically, Critical Element #3, "Ordnance Research Projects," and Critical Element #4, "Liaison." Therefore, you received a performance rating of Unacceptable on September 10, 1990.

On September 14, 1990, you were placed on a second PIP, which gave you an additional 60 work days to demonstrate your ability to perform at the Fully Successful level in Critical Element #1, "Firearms Maintenance and Issue", Critical Element #3, "Ordnance Research Projects", and Critical Element #4, "Liaison". To further assist you in raising your performance level, you attended a course entitled "Report Writing" in Atlanta, Georgia, presented by the Office of Personnel Management, from September 25, 1990, to September 28, 1990. The written products you submitted after completing the course showed no substantive improvement. The reports you submitted still required several revisions due to misspelled words, awkward phrases, redundant statements and punctuation errors. Your next scheduled within-grade increase was due on November 4, 1990, however, as a result of your Unacceptable performance rating, the increase was denied. *

During the period of the second PIP, September 14, 1990, to January 4, 1991, your performance remained Unacceptable in Critical Element #3, "Ordnance Research Projects" and Critical Element #4, "Liaison," and fell from Marginal to Unacceptable in Critical Element #1, "Firearms Maintenance and Issue." Your overall summary performance rating at the close of the second PIP on January 4, 1991, remained Unacceptable.

In the process of making my decision, I have considered your previous work history, and the possibility of demotion and/or reassignment. I have found that there are no positions available at your grade level or below to which you could be reassigned.

In conclusion, I find that the reasons stated in the proposal notice of April 22, 1991, are fully supported by the evidence and warrant your removal to promote the efficiency of the Service. Accordingly, it is my decision to remove you from your position effective close of business May 24, 1991. A Standard Form 50 effecting this action will be forthcoming.

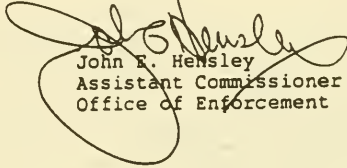
You have the right to appeal this decision to:

Chief Appeals Officer
Merit Systems Protection Board
1100 Commerce Street, Suite 6F20
Dallas, Texas 75242-9979

Your appeal must be filed not later than twenty (20) days after the effective date of your removal. Copies of the Board's appeals form and regulations are enclosed for your information and use.

Please sign, date and return the accompanying copy of this letter as your acknowledgement of receipt of the original.

Sincerely,



John E. Hensley
Assistant Commissioner
Office of Enforcement

Enclosures

ACKNOWLEDGEMENT OF RECEIPT OF ORIGINAL

Signature

Date

LAW OFFICES
RISELL & PRESSLER, P. C.

1225 NINETEENTH STREET, N.W.
 SUITE 850
 WASHINGTON, D. C. 20036

(202) 822-8384
 FAX (202) 331-7587

MICHAEL J. RISSELL
 JAMES W. PRESSLER, JR.

WILLIAM W. NICHOLSON
 OF COUNSEL

March 4, 1993

Hon. J.J. Pickle
 Chairman
 Subcommittee on Oversight
 Committee on Ways & Means
 U.S. House of Representatives
 1135 Longworth HOB
 Washington, DC 20515

Re: Mark E. Humphreville

Dear Congressman Pickle:

This is in response to your request for information concerning Mr. Humphreville's current employment status with the U.S. Customs Service and related background information.

In June of 1991, Mr. Humphreville retained me to represent him in connection with a decision of the U.S. Customs Service to remove him and deny him a within-grade increase for alleged unacceptable performance.

After investigating the circumstances surrounding the personnel actions, I advised Mr. Humphreville that it was my opinion that the personnel actions taken against him were unfounded and were in retaliation for his prior whistleblowing disclosures over a period of years concerning the Customs firearms program at the National Firearms Program Staff, Ft. Benning, Georgia. I recommended that he appeal the actions to the U.S. Merit Systems Protection Board Regional Office in Atlanta, Georgia and seek a stay of the actions under the Whistleblower Protection Act of 1989.

The matter was appealed and a stay was requested. On June 24, 1991, MSPB Administrative Judge Richard P. Klein granted the stay, finding that there was a "substantial likelihood" that Mr. Humphreville would be able to show that his whistleblower activities were a contributing factor to the agency's decision to deny his within-grade increase and remove him. Pending a review of the appeal on the merits, Administrative Judge Klein ordered the agency to immediately return Mr. Humphreville to his Equipment Ordnance Specialist position at Ft. Benning and to grant him the previously denied within-grade increase. Order

Ruling On The Stay Request, Mark K. Humphreville v. Department of the Treasury, Doc. Nos. AT531D91S0727 and AT043291S0728 (June 24, 1991).

After the agency unsuccessfully sought interlocutory review of the stay order from the MSPB, the parties entered into extended settlement negotiations which culminated in a final settlement of the adverse action appeal in September of 1991. The terms of the agreement are confidential.

With respect to Mr. Humphreville's employment status with the Customs Service, he currently remains on the agency's rolls in worker's compensation leave status. On June 5, 1992, the U.S. Department of Labor Office of Federal Worker's Compensation Programs in Jacksonville, Florida, accepted Mr. Humphreville's claim for disability benefits based on evidence which established that he was injured (post-traumatic stress disorder) in his employment as a result of retaliation by the agency for his prior whistleblowing activities. He remains totally disabled due to the psychological injuries that he suffered for his whistleblowing activities, and it is extremely doubtful that he will ever be able to return to active Federal employment.¹

I hope that you and the subcommittee can find some way to see that Mr. Humphreville is commended and rewarded for his courageous whistleblowing actions as a Federal servant.

Please let me know if any further information or assistance is needed.

Sincerely,

Michael J. Riselli
Michael J. Riselli

cc: Mark K. Humphreville

¹Assistant Committee Counsel Thomas Arnold advises me that at recent hearings before the subcommittee a representative of the Customs Service testified that Mr. Humphreville had "resigned" from the Service. As explained above, that representation was not correct.

William von Raab
215 Prince Street
Alexandria, Virginia 22314
(703) 548-7327

April 1, 1992

Ms. Joan L. Stocker
Senior Claims Examiner
Office of Workers' Compensation Programs
U.S. Department of Labor
214 N. Hogan Street, Suite 1006
Jacksonville, FL 32202

Re: Mark K. Humphreville
OWCP File No. A6-522695

Dear Ms. Stocker:

The following outlines my association with Mark K. Humphreville during my tenure as Commissioner of the U.S. Customs Service from 1983 to 1989.

I interviewed and selected Mr. Humphreville for the position of Ordnance Equipment Specialist in March 1983. Therefore, I am personally aware of his professional ability and expertise in the field of firearms development, testing and maintenance, which were the bases for my decision to select him for the position. I have always found him to be professionally competent in his actions and in my dealings with him.

Mr. Humphreville's appointment was not popular with a number of lower level managers within the Customs Service. At the end of 1983, Mr. Humphreville wrote to me describing mismanagement in the office to which he was assigned. After I looked into his allegations and confirmed them, I took immediate corrective action. A reorganization placed Mr. Humphreville under the supervision of Mr. Don Ritchitt, Director, Protective Services Division. Under Mr. Ritchitt's supervision, Mr. Humphreville performed his duties very well and utilized his firearms talents to their fullest extent. He conducted firearms tests resulting in the development of a revolver for the agency that met all requirements and specifications for high quality performance and durability. As a testament to his excellent performance, the U.S. Border Patrol and the Federal Law Enforcement Training Center (FLETC) subsequently adopted the same weapon for their personnel.

In or around early 1986, lower level Customs managers again reorganized the agency's firearms program. As a result, Mr. Humphreville was placed in a small windowless room in a warehouse

located at FLETC in Glynco, Georgia. Despite his prior program successes, he was prohibited from performing his duties and was ostracized by management officials, who, among other things, instructed other employees that he was banned from entering the Armory and not to associate with him.

In 1987, Mr. Humphreville again informed me of examples of mismanagement in the agency's firearms program, including his working conditions and the harassment that he was experiencing. At that time, I initiated an Internal Affairs investigation of this matter, and I again directed that Mr. Humphreville be placed in charge of weapons development, inspection and acceptance.

Mr. Humphreville and I maintained close contact during my tenure as Commissioner. He regularly brought to my attention examples of mismanagement, waste and abuse in the agency's firearms program, which prompted me to investigate and order various corrective actions.

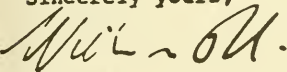
I left the position of Commissioner in August 1989. I subsequently learned that, almost immediately after my departure, Mr. Humphreville began to experience more job harassment from his immediate supervisors in Georgia, culminating in his being removed from his position in May 1991. That bogus removal action was stopped by the U.S. Merit Systems Protection Board in Atlanta, Georgia because the administrative judge found that the actions taken against him were in reprisal for his previous whistleblowing disclosures to me and others.

Since Mr. Humphreville was retaliated against by lower agency management officials at least twice during my tenure for reporting examples of mismanagement, waste and abuse in the agency's firearms program to me, I am not surprised that his supervisors in Georgia continued to retaliate against him after my departure.

I have been informed that Mr. Humphreville's physician has recommended that he receive disability status from your office. In light of the harassment and retaliation that he has had to endure and which has resulted in obvious stress on him and his family, I strongly concur that he should be awarded all possible compensation benefits allowable by your agency. Otherwise, a great injustice will be done to a courageous public servant.

If I may be of further assistance, please do not hesitate to contact me.

Sincerely yours,



William von Raab

16 April 1992

Office of Workers Compensation Program
U.S. Department of Labor
214 North Hogan Street
Suite 1006
Jacksonville, Florida 32202

Attn: Ms. Joan L. Stocker
Senior Claims Examiner

From: Max G. Willis

Re: Mark Humphreville
OWCP file A6522695
248-78-6801

My current mailing addresses and telephone numbers are as follows:

Home: 450 Footman Lane
Merritt Island, FL 32952
Phone: 407-453-0369

Work: Director of Foreign Trade Zone #136
Canaveral Port Authority
P.O. Box 267
Cape Canaveral, FL 32920
Phone: 407-783-7831

On April 1, 1988 I retired as Area Director of Customs, New York. I am currently with Canaveral Port Authority and Foreign Trade Zone #136. My job is that of being Director of said Foreign Trade Zone #136. We now have almost 4,200 acres in the zone. Jurisdiction of zone #136 is Brevard County. Attached you will find a summary of my employment history. Following you will also find what I consider to be pertinent details regarding Mark Humphreville.

I am told that there is some question regarding Mr. Humphreville having been a whistleblower and having been retaliated against.

Please note that I am providing this declaration voluntarily and without reimbursement or benefit from any person. I declare under penalty of perjury that the statements followed by my signature are true and correct to the best of my recall knowledge and belief. Executed this 28th day of April, 1992.

16 April 1992
Ms. Joan L. Stocker
Page two

Around January 1983 I was assigned an Executive Development detail at FLETC-Customs Academy. The detail was to structure and initiate the execution of centralizing training for each region to the one National Training office at Glenco. As part of this I became the first National Training Director for Customs. While in this capacity I was Mark's supervisor. The tenure was about four months. A lot was going on in the firearms program with the commissioner at that time so I worked some, almost everyday with Mark. He executed a sizable flow of technical firearms writing for the program as well as reports to me as to what was happening in the firearms program. I remember, very clearly, that I considered him to be an excellent writer. He was and is one of the top experts in his field in the U.S. He was a prolific writer on smallarms; always clear, concise and accurate. His personal character is above reproach. The man is intelligent, energetic, concerned and dedicated to being a professional in his field.

With such a high regard for Mark I have kept in touch periodically to see how he is doing and to ask his advice regarding firearms or ammunition.

It must be noted that Mark was, at the time I was there, in charge of a very large inventory of small arms of all sizes, shapes, descriptions and uses. Mark and I discussed his responsibility towards accountability problems regarding said firearms. Since his experience with the O.I. managers showed the attitude described in here he had no choice but to go to I.A. as a confidential informer "whistleblower". This should have worked but due to the resulting lack of confidentiality for whatever reason he was placed in a long term ongoing work environment of retribution against him. We discussed this many times as it was happening. Notwithstanding his fine qualifications as a known expert in small arms and small arms ammo he was made an object of ridicule by O.I. management. It was and is one of the grossest miscarriage of justice regarding a federal employee that I have ever been a witness to.

In my opinion, he would not have experienced any problems had he been hired by an official in the Office of Investigation rather than being hired by the Commissioner.

He was never really accepted by some O.I. management persons. It is most unfortunate that Customs did not properly utilize this talented professional.

After I went back to my regular duties as a District Director, Mark called from time to time and I learned from him that no one would listen to accountability problems regarding firearms. As mentioned previously, this resulted in his having to be a "whistleblower" in order to be sure he wasn't placed in the position of becoming a scapegoat in the long run. I agreed with him at the time that some of his superiors would be after his job as soon as Mr. von Raab was gone. That is apparently what happened.

16 April 1992
Ms. Joan L. Stocker
Page three

As noted above, when he initially told me about the accountability problems my advice to him was to make a report to Internal Affairs requesting confidentiality for himself. This was already his intent. I later found out that Mark had properly reported the accountability problems and an investigation was underway.

Over the months and years I have observed this situation take it's toll on Mark healthwise. The Mark I knew, as his supervisor, in the early to mid 80's has undergone drastic physical and emotional changes as a result of the stress that he endured for having blown the whistle. This matter seemed to come to a head when he was fired last Spring. Even though the removal action was reversed by the appeal authority, when this happened it was like the "breaking point."

A simple, straightforward, unbiased exam of this case file is all that is needed in order for Mark to receive the favorable decision he deserves.

Thank you for your time and consideration,

A handwritten signature in cursive script, appearing to read "Max G. Willis". The signature is written in dark ink on a light-colored background.

Max G. Willis

cc: Michael J. Riselli
Mark Humphreville

To Whom It May Concern:

The following recounts to the best of my ability events involving Mark K. Humphreville during my tenure as Director, Protective Services Division, U.S. Customs Service. Mr. Humphreville was assigned to my Division in 1984 and remained in this position until my retirement in August 1985.

Mr. Humphreville was very well known throughout the Customs Service for two things: (1) his close personal association with Commissioner William von Raab, i.e., his frequent disclosures to the Commissioner about mismanagement in the Customs Service and (2) his professional expertise in the ordnance field. Many managers and co-workers were enraged when Mr. Humphreville's professional opinions did not coincide with their personal preferences for weapon selection, procurement practices and/or weapons security in the Customs Service.

When Mr. Humphreville was assigned to me, I spoke with his previous supervisory chain through the GM-15 level. It was very clear to me that these supervisors were upset with him for one thing--his disclosures of mismanagement within the Firearms Program to Commissioner von Raab. These managers continued to attack and harass Mr. Humphreville even when under my command to the point that the Director of Logistics Management and I went to the Director of Personnel and made complaints about his treatment. These same managers retaliated against Mr. Humphreville by delaying his promotion to GS-12.

During this time, Mr. Humphreville was tasked directly by

the Commissioner to locate two missing weapons. After informing me, he started tracing and instead of finding the two weapons the Commissioner asked him to locate, he found hundreds of missing weapons. He also discovered fraudulent billing in the Customs Service. He reported this to me as well as the Commissioner via memos. His memoranda were shortstopped by other managers before reaching the Commissioner.

It was also during this time that Mr. Humphreville and I were having tremendous difficulty in moving forward with the Commissioner's directives. One problem was that the Commissioner would tell Mr. Humphreville directly what he wanted done but the other managers in the chain would "brick wall" any progress he made. I asked Mr. Humphreville to write me a memo outlining the problems and the Commissioner's directives. He did so and, with my approval as a matter of professional courtesy, forwarded copies to the Commissioner and other managers involved. This memo highlighted mismanagement and enraged the other managers.

Mr. Humphreville's relationship with Commissioner von Raab and his reports of mismanagement, waste and abuse were widely known in the Customs Service. It was also rumored that Mr. Humphreville would face severe problems upon the departure of the Commissioner. It is my understanding that these rumors became a reality within days of the Commissioner's departure in 1989. As I understand it, the husband of one of the managers he continually embarrassed recommended that he be reprimanded within five days after the Commissioner left office, and Mr.

Humphreville was later removed. To my knowledge, the managers that Mr. Humphreville embarrassed by his disclosures are still employed by the Customs Service.

Since I have personal knowledge of Mr. Humphreville's being retaliated against prior to the Commissioner's departure, it is a logical assumption that the retaliation would continue. With Commissioner von Raab out of the way, he would have had no defense within Customs to insulate him from the retaliation of the managers he has embarrassed during his tenure.

For the above reasons, I am convinced that Mr. Humphreville's removal was based on his whistleblowing disclosures. That is obviously why the Merit Systems Protection Board prevented the Customs Service from carrying through on the action last year.

Please feel free to contact me if any further information or assistance is needed.

Donald Ritchitt, GM-14 (Retired)
3811 Outrigger Drive
Edgewater, MD 21037
Tel.: (410) 721-1401

Date

To Whom It May Concern:

My name is William E. McKenney. I retired from the U.S. Customs Service in November of 1990.

This statement is a supplement to my earlier statement dated September 7, 1991 that I provided to the Office of Workers' Compensation Programs in Jacksonville, Florida in support of Mr. Mark K. Humphreville's pending claim for worker's compensation benefits. Mr. Humphreville has informed me that OWCP has initially turned down his claim. He further advises me that the claims examiner stated that he did not substantiate his claim that he was retaliated and harassed by his supervisors in the National Firearms Program Staff at Ft. Benning, Georgia.

First, I do not understand how the claims examiner could reach such a conclusion based upon the information provided in my earlier statement.

Nonetheless, in order that there is no confusion about what I reported to OWCP earlier, I wish to provide the following information in support of Mr. Humphreville's claim.

When Mr. Humphreville first came on board with the agency's Firearms Division (which was then located at the Federal Law Enforcement Training Center in Glynco, Georgia) in or around 1983, we had many discussions about the apparent lack of interest or understanding by on-site program managers in the agency's firearms program. I recommended to him that this situation presented an opportunity to propose and develop comprehensive policies and procedures to solve some of the many problems that

plagued the program. I also knew from speaking with Mr. Humphreville that this was the kind of thing that then Commissioner William von Raab wanted him to do since the Commissioner had personally hired him specifically for the purpose of straightening out the firearms program.

Although we certainly tried to propose and recommend various changes to improve the firearms program, Mr. Humphreville and I met with strong resistance from local and regional managers who did not want to acknowledge that there were any problems with the program or were simply unwilling to accept any constructive ideas for positive changes to improve all aspects of firearms control, maintenance and acquisition. This type of situation went on for a period of several years. I can attest for both myself and Mr. Humphreville that it was very frustrating to deal with on the job.

To Mr. Humphreville's credit, despite the constant rejection from his supervisors, he never hesitated to honestly and candidly tell anyone who would listen what the program problems were and who was causing them. As time went on and our repeated requests for action, often in writing, were ignored or were met with gross indifference by local management, both of us became impatient and we started to name names and make disclosures about the many examples of waste, mismanagement and abuse that we were seeing in the firearms program. I know that Mark made such disclosures personally to the Commissioner, which resulted in changes that did not make him the most popular employee in the office with our

supervisors. While the bosses would pay lip service to the Commissioner, they would also make life miserable for Mark on the job. For example, they restricted his movements in the work place by barring him from the armory at one point. They also moved him to an isolated office and restricted his ability to make phone calls and required him to keep a phone log, an obvious reaction to his whistleblowing. When I reminded management that it could not single out one employee by requiring him to keep a phone log, the response was to make everyone in the firearms support unit keep a log. As I also noted in my first statement, the supervisors also told everyone to shun Mark and not deal with him on the job as if he was some sort of pariah.

After the firearms program was moved from Glynco to Ft. Benning in 1988, I was convinced that Mark's days were numbered because of his close association with Commissioner von Raab. As I mentioned in my first statement, I heard managers, including J.E. Parker, the Director, state that Humphreville would "be gone" as soon as the Commissioner left. The Director's prediction came true. As soon as Mr. von Raab left in the summer of 1989, Mark came under immediate and continuous harassment from his immediate supervisors. I know that the supervisors contended that his work was not up to par, especially in the written product area. However, having worked closely with Mark over a period of several years, I considered him to be an excellent writer, and I never had any problems with his written work. In truth, this was just a situation where Mark was being held to

higher, impossible, standards by his supervisors. I never saw anything else like this during the entire time that I worked for Customs.

There is no question in my mind that Mark was retaliated against on the job because he made repeated disclosures about waste, mismanagement and abuse that embarrassed his bosses, especially Mr. Parker, Richard Conger the Deputy Director and Ralph Pendleton, his immediate supervisor. I know this for a fact because I helped him make these disclosures to the Commissioner, Internal Affairs, the Inspector General's Office, and even to Congress, and I saw with my own eyes what happened to Mark on the job.

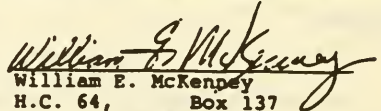
The retaliatory actions taken against Mark Humphreville by his supervisors have caused him to suffer great physical and mental stress. He is not the same person who I knew when I first met him. He and his family have suffered greatly, especially when the agency took the final action to remove him from his job last Spring. Ironically, his position has been justified by the fact that an independent administrative judge of the Merit Systems Protection Board in Atlanta cancelled the removal action as retaliation for protected whistleblowing, but he is still suffering from the harassment he was subjected to as part of his job.

Under these circumstances, I cannot understand why OWCP would deny Mr. Humphreville's claim, and I urge that it be

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favorably reconsidered. Otherwise, justice will not be served.

Please contact me if I can be of any further assistance.


William E. McKenney
H.C. 64, Box 137
Story, Arkansas 71970

DATE: April 14, 1992

Certified Mail

ATTACHMENT 4

Route 4, Box 234-E
Phenix City, Alabama 36867
September 20, 1990

Mr. John Hensley, Assistant Commissioner of Enforcement
United States Customs Service
1301 Constitution Avenue, N.W.
Washington, D.C. 20229

Dear Mr. Hensley: *

The enclosed grievance may be supported by previous correspondence that relates to a pattern of harrassment and retaliation perpetrated upon me. On 9/15/90 I forwarded a grievance to your predecessor, Mr.

RECEIVED
SEP 21 1990
U.S. CUSTOMS SERVICE
WASHINGTON, D.C.

3. Article Addressed to:
John Hensley, Asst. Commissioner of Enforcement
U.S. Customs Service
1301 Constitution Ave, NW
Washington, D.C. 20229

4. Article Number
P 516 809 844

Type of Service:
 Registered Insured
 Certified COO
 Express Mail Return Receipt for Merchandise

to Mr.

I agree att.

ie ial

5. Signature - Addressee
X

6. Signature - Agent
X *[Signature]*

7. Date of Birth
9/24/90

PS Form 3811, Apr. 1989

Enclosure

RECEIPT FOR CERTIFIED MAIL
NO INSURANCE COVERAGE PROVIDED
NOT FOR INTERNATIONAL MAIL
(See Reverse)

Sent to: John Hensley, Asst. Commissioner of Enforcement, U.S. Customs Service

Street and No
1301 Constitution Ave, NW

PO State and ZIP Code
Washington, DC 20229

Postage \$ 25

Certified Fee \$ 2.00

Spec. or Delivery Fee

Restricted Delivery Fee

Return Receipt (including postage) \$ 2.00

Postage and Insurance Fees \$ 2.00

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PS Form 3800 June 1985

Certified Mail

Route 4, Box 234-E
Phenix City, Alabama 36867
September 20, 1990

Mr. John Hensley, Assistant Commissioner of Enforcement
United States Customs Service
1301 Constitution Avenue, N.W.
Washington, D.C. 20229

Dear Mr. Hensley:

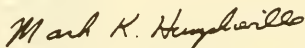
The enclosed grievance may be supported by previous correspondence that relates to a pattern of harrassment and retaliation perpetrated upon me. Over one year ago I forwarded a grievance to your predecessor, Mr. Rosenblatt, and was ignored. I wrote several letters directly to Commissioner Hallett but was subsequently told they were diverted to Mr. Rosenblatt and others. The Commissioner never saw them.

I believe that if you look into the background of my case, you will agree that Commissioner Hallett should have been informed by Mr. Rosenblatt. As partial proof I would direct your attention to the "RED BOOKS" submitted to you by Miami Internal Affairs concerning the National Firearms Program Staff and my involvement.

Since retaliation is a violation of Federal Statutes, I believe the appropriate Fact Finder in this case would be the Office of Internal Affairs. Special Agents Reed and Greenstein performed the recent investigation of the National Firearms Program Staff and are most knowledgeable of events that have occurred in this unit. For this reason I request that they continue their work in this area.

I regret that events have deteriorated to this level in the National Firearms Program and request your help in correcting the injustices which have occurred.

Sincerely,



Mark K. Humphreville

Enclosure

Route 4, Box 234-E
Phenix City, Alabama 36867
January 7, 1990

Commissioner Carol Hallett
United States Customs Service
1301 Constitution Avenue, N.W.
Washington, D.C. 20229

Dear Commissioner Hallett:

Attached you will find my Grievance. I fully realize such is not your normal daily mail; however, I feel my only recourse is to direct such to you personally for the following reasons.

1. Please direct your immediate attention to Paragraph XVI of the Grievance Issues and Attachments to Grievance. I have been ordered by management to place loaded firearms in a shipping and receiving room where all other weapons are presumed to be unloaded. I fear that one of my co-workers, myself, or some other innocent party might be injured if this directive is carried out.
2. In view of the fact that this is directed in part against officials on your immediate staff as well as their subordinates, I believe that a Customs Fact Finder (approved by Assistant Commissioner Rosenblatt on December 15, 1989) would be intimidated or swayed by possible retaliation if findings in my behalf are made. This is true particularly since Mr. Rosenblatt's wife is identified as being aware of the existence of certain conditions within a program for which she was responsible. For these reasons I believe a Fact Finder from another agency is the responsible course of action. I hereby request your review of the enclosures to confirm the appropriateness of my recommendation.
3. Due to Assistant Commissioner Rosenblatt's denial of appropriate administrative leave and the requested extension, I have prepared a grievance that generally outlines the problem that has developed over the years. This is not to say Commissioner von Raab was not aware of what happened prior to his departure; he had taken swift action in the past and attempted to correct injustices in an informal manner. As a result, it is common knowledge within the Customs Service that management would attempt to remove me immediately after his departure.

Prior to that time it was also common knowledge that the Commissioner personally interviewed and hired me from Aberdeen Proving Ground to set up a Firearms Program and I did. This

combination has not met with the approval of lower managers who think Customs should purchase armament based on a manufacturer's name not the reliability and durability of the product. I would respectfully request that you talk with the former Commissioner personally to confirm my expertise in this field if you have questions after reviewing Exhibit 2 of the grievance.

4. I have tried for the last five months to get a fair and impartial hearing on these events as the copies of previous letters to management will attest.

I wish to apologize to you in advance for the inconvenience this will cause you and the potential embarrassment of the Service; however when I am informed in writing that actions management is taking will possibly result in my removal from Federal service, I am hereby compelled to take any and all legal actions to set aside their attempts. I feel I have made every attempt to quietly settle this informally; however management apparently does not feel compelled to follow the applicable regulations.

In conclusion, I again ask that you personally review this document with first attention to Paragraph XVI. I also ask for a confirmation via FAX to my duty station letting me know you have personally received my grievance. This request is made in light of the fact that documents I attempted to send Commissioner von Raab (at his request) were either deadlined or rerouted. For this reason Commissioner von Raab had to establish a secure go-between, so to speak, to ensure his messages to me and my responses to him were transmitted directly and promptly.

Thank you for your consideration.

Respectfully submitted,



Mark K. Humphreville

Enclosures

Route 4, Box 234-E
Phenix City, Alabama 36867
January 22, 1990

Mr. John Shay
Office of Congressional & Public Affairs
United States Customs Service
1301 Constitution Avenue, N.W.
Washington, D.C. 20229

Dear John:

Since I have learned that my recent communications to Commissioner Hallett have been diverted to the Office of Enforcement for action without her being made aware of their content, I believe any actions taken by that office will be biased based upon happenings to date.

I have written to Mr. Robert Mitchell asking for his intervention to ensure an unbiased review of such and am concerned that the same parties who prevented correct delivery of my initial communications might attempt to do so again.

To ensure that Mr. Mitchell receives my request I am enclosing copies and ask that you hand deliver such to him. I would appreciate your calling me to confirm your delivery of the enclosed.

Thank you very much for your assistance in this matter.

Sincerely,

P 497 221 622

RECEIPT FOR CERTIFIED MAIL

Mark K. Humphreys

Enclosures

U.S. CUSTOMERS SERVICE
John Shay
U.S. Customs Service
1301 Constitution Ave NW
Washington DC 20229
Postage
Delivery Fee
Special Delivery Fee
Registered Mail Fee
Return Receipt (hard copy)
Return Receipt (electronic)

PS Form 3800 June 1985



Route 4, Box 234-E
 Phenix City, Alabama 36867
 January 22, 1990

Mr. Robert Mitchell
 Executive Assistant Deputy Commissioner
 United States Customs Service
 1301 Constitution Avenue, N.W.
 Washington, D.C. 20229

Dear Sir:

Enclosed are copies of communications I sent to Commissioner Hallett on December 28, 1989, and January 7, 1990. ESS numbers are 179485 and 178638 respectively. I have been advised that both of these communications were directed to the Office of Enforcement and were not seen by the Commissioner.

I am hereby requesting that you review the enclosed to be advised of the problems I have experienced. It is my opinion that the Office of Enforcement is not the appropriate office to make judgments in this matter in that the Assistant Commissioner of Enforcement and his wife are specifically named in the action.

After your review of these communications I would greatly appreciate your directing them to the appropriate office to ensure a fair and equitable handling of this matter.

Sincerely,

Mark K. Hum

Mark K. Hum

Enclosures

P 497 221 621

RECEIPT FOR CERTIFIED MAIL

USPS Form 3800, June 1985

USPS Form 3800, June 1985	Sent to <u>Robert Mitchell</u> <u>US Customs Service</u> <u>1301 Constitution Ave NW</u> <u>Washington DC 20229</u> Postage _____ Certified Fee _____ Special Delivery Fee _____ Registered Mail _____ Return Receipt with Certificate of Mailing _____ Return Receipt with Date and Signature _____ Total Postage and Fees _____ Date _____
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1990 JAN 22

Route 4, Box 234-E
Phenix City, Alabama 36867
February 27, 1990

Mr. William F. Riley, Comptroller
United States Customs Service
1301 Constitution Avenue, N.W.
Washington, D.C. 20229

Dear Mr. Riley:

I am writing in reference to your letter of February 14, 1990, concerning my request for review of my grievance by an office other than the Office of Enforcement to ensure fair and equitable handling of the issues involved.

You quoted 5 CFR 771 Administrative Grievance Systems and stated "Our records reflect that William Rosenblatt, Assistant Commissioner, Office of Enforcement, was not involved in any phase of the matters that gave rise to your grievance." This statement can easily be disproved by a review of my grievance; for not only is Mr. Rosenblatt named but also his wife is named, as well as management in offices under her control.

Mr. Riley, either you have not read the grievance I was forced to submit without benefit of the material I requested, your personnel specialists have given you false information, or a combination of the two have occurred.

In your January 31 letter you stated "In a letter dated December 15, 1989, William Rosenblatt, 'Assistance' Commissioner, Office of Enforcement, responded to your requests for information and documents made in your August 28, 1989, letter..." Mr. Rosenblatt's letter did not begin to provide the information/documents I had requested and am entitled to by law. Anyone comparing Mr. Rosenblatt's "response" to what was requested will readily confirm this fact. It took three and one-half months for this so called "response".

Mr. Rosenblatt's December 15 letter further stated I would be notified "in the near future" of the appointment of the fact finder I have requested. It is now February 27, two and one-half months since his letter--what is "in the near future"?

None of the actions of management heretofore have reflected responsible management practices and, in my opinion, provide further evidence of my previous charges of harrassment and discrimination. It now appears that you too feel compelled to become a part of management's harrassment tactics.

Mr. Bob Smith should have told you that this is not the first incident of my being harrassed by management--by the Office of the Comptroller. He should have also informed you that former Commissioner von Raab took

Mr. William F. Riley, Comptroller
Page 2
February 27, 1990

action in the past when he received substantiation that I had been the recipient of such treatment. He should have told you of the occurrence of pre-selection on several occasions in the past whereby I was denied the opportunity to apply for positions, and he should also have told you that such pre-selection practices exist right now. It is so blatant that at present managers are boasting about who will be promoted to positions which are being created!! It is my opinion that if he has informed you of this, as a responsible manager, you should have corrected such practices and if he has not informed you, then he has not performed his duty.

It appears that Customs management plans to continue to discriminate against me and to harrass me in view of its actions to date and in light of a statement to me by a member of your staff. This staff member told me Customs managers do not have to substantiate any allegations against an employee until the Merit System Protection Board hears the case. Your decision to have a party who is clearly involved as the reviewing official shows intent to allow such unfair practices to continue. This is further evidenced by the actions of parties yet unknown who made sure my letters to Commissioner Hallett never reached her but were diverted to Mr. Rosenblatt. Does Mr. Rosenblatt have authority to act as the Commissioner of Customs? If so, please forward me a copy of the enabling documentation.

It should be obvious to anyone after reviewing my documentataion that I have been subjected to harrassment and unfair treatment. Since you are clearly taking the position of supporting an obvious fabrication of or misrepresentation of events, it appears my assumption is further reinforced. I believe, therefore, my only recourse is to request a review of my case by the appropriate Congressional offices/committees having an interest in Customs' matters. I can only assume their responses will be more timely than those of Customs management.

Sincerely,

Mark K. Humphreville

bcc Mr. Robert Mitchell

64 Bayview Drive
 Phenix City, Alabama 36869
 3/12/91

Mr. John J. Kraus
 General Training Division
 U.S. Customs Academy
 Glynco, Ga. 31524

Dear Mr. Kraus:

The following is presented per your request:

Under your heading of Grievance, you state, "... acts of retaliation by management because he (Mr. Humphreville) cooperated with Internal Affairs during an investigation of the National Firearms Program Staff."

You clearly deleted many facts revealed to you during your "Fact Finding" on November 9, 1990. You have failed to mention other events I was involved with such as:

1. My disclosure of unsafe weapons to FLETC management in 1983 wherein one of their managers was criticized in my presence.
2. My cooperation with a main Treasury IG investigation in 1985 resulting in the confirmation of a violation of Federal statute by a FLETC manager who was subsequently removed.
3. My revealing Firearms Program irregularities and requesting a full scale investigation of the Firearms Program in 1987. No investigation came forward.
4. My contact with the Office of Management Integrity in early 1988 for Federal statute violations.
5. My follow on interview/statement given on site at Glynco with an agent of that office.
6. Mr. Parkers statement/order that he had been so informed of the above contact with Internal Affairs and his direct order to me not to make any further statements to Internal Affairs without his knowledge or concurrence.
7. My subsequent statements and presentation of documentation to IA in the summer of 1988 wherein I revealed evidence of:
 - A. Missing Weapons.
 - B. Alterations of Official Records.
 - C. Diversion of seized property to Customs managers.

-2-

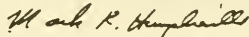
- D. Suppression by Customs managers of unlawful act committed by other Customs personnel and suppression of such.
 - E. Failure of Customs managers at the Ass't. Commissioner level to report, take action after full knowledge of violation of Federal Statutes.
 - F. Other evidence of mismanagement such as suppression of fraudulent billing.
8. No mention is made of my revealing the above to the Office of Special Counsel in 1989.
9. No mention is made that I revealed procurement fraud in 1987 and 1988. This action involved a person named in a Grievance you hold that you freely admitted is a close friend. Note: That Grievance pre-dates this one.
10. No mention is made that I revealed procurement irregularities to HQ personnel in 1987.
11. No mention is made of Mr. Parker's statements that he has a source in Internal Affairs who keeps him informed of their work.
12. No mention is made that IA personnel admitted to me that Mr. Parker has been so informed.
13. No mention is made that IA personnel were planning further investigations of NFPS but have been restrained by Customs Managers for over six months without justification.
14. No mention is made that Mr. Robert Gerber recommended I contact Internal Affairs in early 1988. See items 3, 4 and 5.
15. No mention is made of Mr. Parker and Pendleton's order not to reveal procurement irregularities in early 1988.
16. No mention is made of Mr. Conger's direction to remove U.S. Army Property in early 1988 and so reported to Mr. Pendleton.
17. No mention is made of the missing weapons during an inventory by Mr. Conger wherein they were left in a warehouse downtown for fifteen months and not missed.
18. No mention is made that agents Reed and Greenstein were informed of other statute violations. The Red Books referenced in my Grievance should include this information unless it was "overlooked".
19. You were informed on November 14, 1990 that three Customs officers were available to testify that management has been heard to make statements that my removal action would commence upon Commissioner von Raab's departure. Please be advised that notarized material is on file with the Office of Special Counsel.

-3-

20. You may confirm that much of the above was covered in the MSPB appeal with Regional Counsel G. Urbanic. Other information was revealed to Special Counsel during 1989.

IN CONCLUSION, ANY IDEA THAT THE REFERENCED RETALIATION IS THE RESULT OF THE RECENT LA INVESTIGATION OF THE NATIONAL FIREARMS PROGRAM STAFF IS NOT TRUE. IT IS IN FACT ONLY THE CULMINATION OF PAST EVENTS UP UNTIL THAT TIME.

Sincerely,



Mark K. Humphreville

64 Bayview Drive
Phenix City, Alabama 36869
May 3, 1991

Mr. John Hensley
Assistant Commissioner (Enforcement)
1301 Constitution Avenue, N.W.
Washington, D.C. 20229

Dear Mr. Hensley:

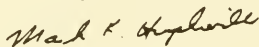
I am writing to you at the direction of J.E. Parker in his April 22, 1991 letter to me.

In his letter Mr. Parker has proposed to terminate my employment even though findings for two of the grievances I filed have not yet been disclosed. One of these grievances was filed over sixteen months ago.

The charges and proposed action are all a part of the sham created by management in retaliation for exercising my right to grieve and for participating in whistleblowing activities.

I hereby deny all charges made against me.

Sincerely,



Mark K. Humphreville



DEPARTMENT OF THE TREASURY

U.S. CUSTOMS SERVICE

WASHINGTON, D.C.

APR 18 1991

PER-OM:H:L:R TB

Mark R. Humphreville
 Equipment Specialist (Ordnance)
 U.S. Customs Service
 National Firearms Program Staff
 Fort Benning, Georgia 31905-5000

Dear Mr. Humphreville:

This is in response to your administrative grievance filed September 6, 1989, concerning the Official Letter of Reprimand you received on August 24, 1989.

In the grievance you allege that you were relieved of the responsibility to complete the project of developing lists and lots of firearms for the exchange/sale scheduled to take place in July, 1989; that you could not get a fair hearing on this matter because Mr. J. Edward Parker sought concurrence from Mr. William Rosenblatt, former Assistant Commissioner (Enforcement), regarding issuance of the Letter of Reprimand; that the whole affair is Mr. Ralph Pendleton's fault and that Mr. Pendleton intentionally submitted a wrong list of lot numbers for publication.

An initial review of the grievance revealed conflicting evidence regarding pertinent facts in this case. Consequently, Mr. John J. Kraus was appointed as fact-finder. Mr. Kraus made an exhaustive review of the facts resulting in the following conclusions.

Specifically, the Letter of Reprimand was issued for your failure to properly complete an assigned project and for your failure to take the proper action to correct a known discrepancy in inventory that was to be published. A review of the record indicates that you were assigned to develop an inventory of firearms in the possession of the National Firearms Program Staff for exchange/sale through the Office of Procurement. During the inspection of the firearms for sale, some discrepancies were discovered which resulted in a delay of the exchange/sale while a re-inventory was completed. This caused a delay in work production and embarrassment to the Customs Service because the discrepancies were discovered by one of the vendors participating in the exchange/sale.

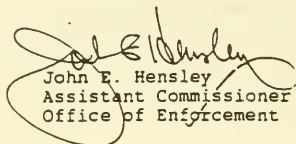
-2-

Moreover, the case facts reveal that you were solely responsible for the accuracy and completeness of the work assignment given to you and that the Special Agents were detailed to assist you. Nevertheless, at no time were you relieved of the task to develop the inventory data for the exchange/sale. Accordingly, the case facts support the Letter of Reprimand and the fact-finders report in this matter is accepted as a whole. Therefore your grievance is denied and the Letter of Reprimand will remain in effect.

Since I have been appointed Assistant Commissioner (Enforcement), and have fully reviewed this case, the allegation that you could not receive a fair hearing on this matter is no longer an issue.

This is my final decision regarding this administrative grievance.

Sincerely,



John E. Hensley
Assistant Commissioner
Office of Enforcement

DEPARTMENT OF THE TREASURY
U.S. CUSTOMS SERVICE
WASHINGTON, D.C.

MAY 15 1991

PER-OM:H:L:R TS

Mark Humphreville
Equipment Specialist (Ordnance)
U.S. Customs Service
National Firearms Program Staff
Fort Benning, Georgia 31905

Dear Mr. Humphreville:

This is in response to your administrative grievance dated September 20, 1990, concerning the unacceptable performance rating you received on September 4, 1990, and subsequent warning that your next scheduled within-grade increase due November 4, 1990, would be denied.

In your grievance, you allege that the unacceptable performance rating and subsequent denial of your within-grade increase were in retaliation for your cooperation with an Internal Affairs investigation of the National Firearms Program Staff (NFPS) and is the result of a culmination of events that have taken place over a period of several years.

In order to determine the facts in this matter, a fact-finder was appointed to conduct an investigation of the allegations and to present his findings to the deciding official for consideration.

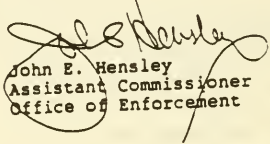
As the deciding official, I have carefully reviewed the entire case file including the report filed by the fact-finder, Mr. John J. Kraus. The evidence clearly indicates that you failed to demonstrate the ability to perform the duties of your position at the acceptable level, even after sufficient opportunity to do so during the performance improvement plan period from December, 1989 to July 18, 1990. In addition, you have presented no evidence to refute the unacceptable performance rating and within-grade increase denial.

Furthermore, you continue to allege that management's actions are in retaliation against you for your cooperation in an Internal Affairs investigation and are the result of a culmination of events over a period of several years. You presented no evidence to support your allegations and the fact-finder's report does not reveal any evidence of misconduct by your supervisors. Therefore, I must conclude that these allegations are without merit.

Accordingly, your grievance in this matter is denied because the evidence supports the unacceptable performance rating and subsequent within-grade increase denial.

This is my final decision regarding this administrative grievance.

Sincerely,



John E. Hensley
Assistant Commissioner
Office of Enforcement

**THE COMMISSIONER OF CUSTOMS**

WASHINGTON, D.C.

July 7, 1993

The Honorable J.J. Pickle
Chairman
Subcommittee on Oversight
Committee on Ways and Means
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

By letter dated March 11, 1993, you requested that Customs respond to questions regarding our Firearms Program in order to complete the hearing record on this matter. Based on discussions with Messrs. Tom Arnold and Chris Smith, I wish to withdraw the April 26, 1993, response to your questions and substitute the enclosed response.


I would also like to take this opportunity to express our appreciation for the role you and your staff have played in helping to bring about improvements in the Customs Firearms Program. As a result of the hearing and the continued oversight of your subcommittee, we are making a number of constructive changes to weapons control and accountability in Customs. In addition, we recognize that many of the problems identified in this program are, to a certain extent, symptomatic of larger past management control concerns in the Service.

I strongly believe that Customs is now making genuine progress, not only in crafting a firearms control system that goes beyond the specific deficiencies pointed out through your oversight process, but also in taking substantive steps to improve the way we manage our operations and programs.

As I begin my term as Commissioner, I sincerely hope that we can continue to work cooperatively and constructively with you and your staff to make further improvements in the Customs Service. Although we can always learn from past mistakes, I am hopeful that by focusing on the present and the future, we can make this a Customs Service of which we can all be proud.

As you know, I am always available to discuss any issues of concern to you.

Sincerely,

A handwritten signature in cursive script that reads "George J. Weise". The signature is written in dark ink and is positioned above the printed name and title.

George J. Weise
Commissioner

Enclosures

QUESTIONS FOR THE RECORD
 SUBCOMMITTEE ON OVERSIGHT
 COMMITTEE ON WAYS AND MEANS
 HEARING ON THE INABILITY OF THE U.S. CUSTOMS SERVICE
 TO ACCOUNT FOR ITS FIREARMS

1. Standard issue firearms for the U.S. Customs Service are:

- 1) Smith & Wesson Model 6906 9mmP pistol
- 2) Smith & Wesson Model 6946 9mmP pistol
- 3) Smith & Wesson Model 3953 9mmP pistol
- 4) Smith & Wesson Model 686 CS-1 .357 magnum revolver
- 5) Smith & Wesson Model 60 .38 special revolver
- 6) Remington 870 12 gauge shotgun
- 7) Steyr AUG/AUGP .223 caliber burst-fire rifle

a. The number of standard issue firearms in the Customs Service are:

1) Smith & Wesson Model 6906	- 3197
2) Smith & Wesson Model 6946	- 3591
3) Smith & Wesson Model 3953	- 231
4) Smith & Wesson Model CS-1	- 7803
5) Smith & Wesson Model 60	- 970
6) Remington 870 shotgun	- 1941
7) Steyr AUG/AUGP rifle	- 1729
Total in use	19462

b. Section 7.a.(6) of the Customs Firearms Policy authorizes a supervisor to grant exceptions to handgun restrictions in any situation where a Customs standard firearm would compromise the safety of the Officer or compromise the mission. Additionally, Customs Officers who have not been issued a "Standard Issue" Customs firearm may be authorized to carry other Customs firearms having similar operating characteristics which remain in Customs inventory as supplemental weapons.

i. Non-standard firearms are used by the Customs Service for the following reasons:

- 1) To supplement the current Customs inventory of "Standard Firearms" pending the completion of the standard firearms procurement;
- 2) Special purpose firearms are needed for undercover assignments, stings, and special operations;
- 3) Firearms are maintained for training and competition in the Customs Explorer Program;

- 4) Non-standard firearms are maintained by the National Firearms Program Staff (NFPS) for use in the exchange/sale program and for transfer to other Federal agencies when requested.
- ii. There are currently 3785 non-standard firearms in the Customs inventory, however, this number fluctuates depending upon the sale and exchange of weapons. We are currently proceeding with reducing this number. The breakdown in the number of non-standard weapons, by the categories identified in 1.b.i., and the timetable to remove them from service when appropriate are as follows:

Category 1

There are 825 non-standard weapons in the inventory which are being used to supplement the current Customs inventory of standard firearms until they can be replaced through procurement or sale/exchange of standard weapons. The target date for the total reduction of this number is 18 months, contingent upon procurement funds availability and/or weapons availability through sale/exchange.

Of these, 158 weapons are non-standard six-shot revolvers and semi-automatics which, contingent upon the successful procurement of the standard semi-automatic weapons, will be replaced within the next six months.

Of these, 667 weapons are non-standard 5-shot revolvers. These weapons are used for a variety of assignments particularly those where it would be inappropriate to have a larger frame revolver or semi-automatic weapon. These weapons will only be replaced through sale/exchange availability.

Category 2

There are 1396 special purpose firearms in this category. There is no expectation to reduce this number of weapons.

These include 270 firearms on loan from the U.S. Army and 926 Customs weapons. These weapons include M-16s, grenade launchers, AK 47s, etc. These weapons are requested and sent to the field on a weekly basis to be used for flash purposes for a variety of cases.

This category also includes 200 weapons used by the Offices of Enforcement and Inspection and Control for training and familiarization. This enables agents and inspectors to be trained in the safe handling, unloading, and inspection of weapons they are likely to encounter in the field.

Category 3

This category includes 720 weapons available to Customs Explorer Posts.

Of these, 199 weapons are currently assigned to field Explorer Posts for use in training and competition.

Of these, 521 weapons are located at NFPS for issuance to new Explorers. Approximately 75% of these 521 weapons are expected to be removed from the inventory through the exchange/sale program over the next nine months.

Category 4

This category includes 844 weapons.

Of these, 240 weapons are firearms which are currently on loan to the U.S. Border Patrol Agency to supplement their inventory due to a shortage of firearms.

There are 604 weapons being held by NFPS for sale/exchange purposes. These weapons are being placed into the sale/exchange programs as expeditiously as possible. The number in this category will not necessarily be reduced however, because the non-standard weapons currently in the field will be placed in this category as they are replaced by standard weapons.

Sale and exchanges of these weapons occur on approximately a quarterly basis.

- iii. Non-standard firearms are used for the purposes described in the response to question 1.b.i.

- c. There are automatic and burst-fire firearms in the Customs Service inventory.
- i. The use of automatic and burst-fire firearms is a common practice among Federal law enforcement agencies, especially those involved in the war on drugs. Issuing these types of firearms provides Customs Officers with the level of firepower necessary to compete with that of the criminals they encounter.
 - ii. Section 7.e.(2) of the Customs Firearms Policy authorizes officers within the Offices of Enforcement and Internal Affairs to be issued automatic and burst-fire firearms.
 - iii. The use of shoulder weapons or any type of firearm is delineated by policy. Section 6.c. of the Customs Firearms Policy states:
 - 1) Firearms may be used only as a last resort, when the officer has probable cause to believe that the suspect poses an immediate threat of death or serious bodily injury to the officer or others.
 - 2) Firing at fleeing persons is not justified unless a verbal warning is issued and the officer has probable cause to believe that the fleeing person has just committed a serious crime such as murder or attempted murder.
 - iv. Automatic and burst-fire firearms are subject to the same inventory controls as all other Customs firearms.
- d. The list of firearms that are available for use by Customs Officers is quite extensive. In most cases, firearms listed in response to 1.b. are issued to an officer on a permanent basis until either recalled or replaced with a standard firearm. Other firearms for use in undercover assignments are issued on a temporary basis as long as the undercover case is active. The NFPS issues either the Walter PPK or PPK/S and the Beretta 84 .380 caliber pistol for these assignments. Firearms used in special operations or stings are issued on a temporary basis. Firearms such as the M-16 rifle, M-60 machine gun, M-79 Grenade Launcher, AK-47 rifle, AR-15 rifle and many others are utilized for undercover and sting operations depending on case requirements.

- e. Customs officials are only authorized to carry approved "Standard Firearms" or approved non-standard, supplemental, or approved personal firearms while on duty. No other category of firearm may be carried.
- i. Not applicable (see response to 1.e. above)
 - ii. Not applicable (see response to 1.e. above)
- f. Customs officials are permitted to carry privately-owned firearms while on duty.
- i. Section 7.b.(1) of the Customs Firearms Policy authorizes officers in the Offices of Enforcement (OE), Internal Affairs (IA), and Inspection and Control (I&C) to carry personally-owned handguns for official use. They must meet the criteria set forth in sections 7.a.(1) and (2) and Appendix III of that policy. Section 7.d. of the Customs Firearms Policy authorizes the same officers listed above to use shotguns in the prescribed calibers/gauges and standardized models as issued by the Service. Use of shoulder firearms under this provision requires supervisory approval for OE personnel or the District Director for I&C personnel, with the exception of Section 7.f. provisions of the Customs Firearms Policy.

Section 7.f. of the Customs Firearms Policy states that no personally-owned fully automatic or burst-fire firearms are authorized or approved for Customs use.

- ii. Individuals are allowed to carry these personal firearms as it reduces Customs inventory and maintenance costs. Through the firearms qualification system, manual records are maintained for personally owned weapons (POW) that are authorized for use. A POW which complies with Customs requirements may only be carried for official purposes if the employee has completed a quarterly qualification with the POW. At the time of qualification, the range officer verifies the make, model and serial number of the weapon used for qualification. The range officer's records provide any needed data regarding POWs approved for use during the specific quarter.

One of the upcoming enhancements for the Weapons Inventory Control System (WICS) is the automation of the range officer's qualification records. The automation of the qualifications records will provide data query capability on inventory information regarding these weapons.

2. As a general principle, Customs Officers are authorized under Title 19 U.S.C. 1589a and the Customs Firearms Policy in order to accomplish the mission of the U.S. Customs Service.

I have recently approved a new policy which will allow only those employees whose duties meet the criteria described below to carry firearms. The job series and titles listed below reflect Customs determination of which employees meet these criteria. Exceptions or additions to this policy will be made by me on a case by case basis. This policy will be incorporated into a new Customs Firearms Policy. Employees meeting the following criteria and who are in the corresponding job title/series will be authorized to bear firearms.

Criteria I:

Customs Officers involved in daily, routine or recurring law enforcement activities and operations in support of Customs mission, or those sworn law enforcement personnel considered to be "law enforcement officers" 24 hours a day while both on and off duty. This criteria includes Customs Inspectors, Criminal Investigators, Law Enforcement 6C-covered employees, Canine Enforcement Officers, Customs Pilots, Customs Patrol Officers, Port Directors and Assistant District Directors, I&C.

Criteria II:

Customs Officers involved in the storage, handling, and accountability of seized property and contraband and/or assigned in physical security functions and/or field operational functions in direct support of law enforcement operations and activities. Employees who fall into this criteria are Equipment Specialists (Covert Technicians), Secure Storage Specialists, Seizure Custodians, Lead Guards, and Physical Security Specialists.

This policy provides the basis for determining the classes of positions whose incumbents will be authorized to carry weapons. We have, however, added a distinction to provide that in certain situations and assignments, employees within

the authorized category would not be permitted to qualify and carry weapons. For example, Customs Inspectors in Headquarters, regional or pre-clearance assignments, will not be permitted to qualify and carry weapons even though, as Customs Inspectors, GS/GM-1890s, they fall into a class authorized to carry weapons.

By applying the new criteria, approximately 11,895 employees will be authorized to carry firearms. Based on current firearms inventory records, we estimate that 9,792 employees will be permitted to carry weapons.

- a. There are approximately 5,521 Inspectors (based on current on-board staffing) who will be permitted to carry firearms.
- b. There are approximately 2,935 Criminal Investigators (based on current on-board staffing) who will be permitted to carry firearms.
- c. Pursuant to Customs new policy on the authorization to bear firearms, the following classes of positions with the identified job title and series are authorized to bear firearms:
 - 1) All Customs Inspectors, GS/GM-1890
 - 2) All Criminal Investigators, GS/GM-1811
 - 3) All employees in law enforcement positions approved for law enforcement retirement coverage in GS/GM-1801
 - 4) All Canine Enforcement Officers, GS/GM-1801
 - 5) All Port Directors, GS/GM-1801
 - 6) All Customs Pilots, GS-2181
 - 7) All Customs Patrol Officers, GS-1884
 - 8) All Assistant District Directors for Inspection and Control, GM-301
 - 9) All Equipment Specialists (Covert Technician), GS-1670
 - 10) All Secure Storage Specialists, GS-2001
 - 11) All Seized Property Custodians and Seized Property Specialists, GS-1801
 - 12) All Lead Guards, GS-0085
 - 13) All Physical Security Specialists, GS-0080
 - i. The above positions meet the criteria established in Criteria I and II.
 - ii. There is no distinction made between supervisory/management personnel and other individuals under the provision of Title 19 U.S.C. 1589a. The new Customs Firearms Policy, however, will require managers and administrators to meet

the established criteria described above or to obtain an exception from me before being authorized to bear firearms.

- d. Title 19 U.S.C. 1589a and the Customs Firearms Policy provisions allow the Commissioner of Customs and other delegated officials to designate which officials may carry firearms in order to accomplish the mission of the U.S. Customs Service.
- e. Different firearms are approved for use by different categories of Customs officials. For example, OE and IA personnel (Special Agents, Pilots, etc.) are authorized to use the issued Customs Steyr Aug rifle. I&C personnel are not permitted to use automatic or burst-fire firearms unless approved by the Assistant Commissioner, I&C. Currently no Inspection and Control personnel are authorized to use automatic or burst-fire firearms.
- f. As stated in my response to question 2.c., I have restricted the authority to carry firearms to only those employees who have direct responsibility for law enforcement or security purposes. Managers, program analysts, program managers, special assistants and others who were previously authorized to bear firearms must meet the new criteria or receive my personal approval before being authorized to carry firearms under my new policy.

Beyond this, however, the U.S. Customs Service is a law enforcement agency whose mission includes the enforcement of a variety of Federal statutes. Customs Officers have both a duty and a responsibility to enforce Federal law. Our Special Agents and Inspectors, as well as some managers and supervisors routinely confront violent Federal offenders, state and local fugitives, deranged and psychotic passengers, illegal aliens, and others that pose a ready threat to the physical well-being of our personnel. As law enforcement officers, whether supervisory and managerial, or non-supervisory, our armed personnel are duty bound to protect and safeguard the well-being of American citizens. This includes the responsibility to safeguard citizens and thwart violent crime 24 hours a day regardless of their on-duty or off-duty status.

3. In 1987, the Customs Firearms Program was organizationally located in the Customs Service Academy under the Office of Human Resources (under the Office of the Comptroller) and physically located at Glynco, Georgia. There was a great deal of concern on the part of executive management that the

program was not providing the needed service to the armed men and women of Customs. The Comptroller wrote to the Commissioner of Customs and outlined three alternatives on the organizational placement of the Firearms Program: 1) solicit another agency to handle all Customs firearms responsibilities; 2) contract with a private firm to handle firearms; and 3) place firearms responsibility under another Assistant Commissioner. The then Assistant Commissioner (Enforcement) volunteered to assume responsibility for the program. The function was officially transferred to OE in early 1988, where the program underwent a staffing build-up, and was organized as it is today.

Due to the many extensive changes to the Firearms Program currently in progress I believe it would be untimely to disrupt the operation further by changing its reporting structure within the Service. I will, however, re-examine the merits of placing the program elsewhere in the organization at a later time.

4. Currently, General Order firearms are not the property of the Government and must either be destroyed or sold at public auction. The Customs Service has elected not to sell any General Order firearms at public auction. Further, General Order firearms are not used by the Customs Service for any purpose. If they have potential for use, they are currently held at NFPS, along with any ammunition received with the firearms, pending a change in the statute dealing with General Order Merchandise. As you know, this change was requested in the Modernization Act. If this request is approved, Customs will have the option of using those firearms for the reasons cited above. Customs position on this issue, obviously, would be to only retain General Order firearms if it benefits the government.

Customs could use General Order firearms and ammunition for the same purposes as described earlier on non-standard weapons. Customs, however, will generally only retain these firearms in the interest of obtaining higher prices for sale and exchange programs.

Forfeited firearms are evaluated by the Customs Armorer to determine their suitability for the Customs inventory. Firearms that are not suitable for use are slated for destruction at the earliest opportunity. Forfeited ammunition is also evaluated to determine suitability for use by the Customs Service. If usable, the ammunition can be returned to the field for training and practice or used by the NFPS for testing/evaluation, practice, marksmanship training or competition. Ammunition that is not suitable for service is slated for use in the exchange/sale program.

Customs will schedule weapons for destruction no less than every 90 days.

- a. & b. We have identified only one official who has been disciplined for misuse of forfeited or general order firearms and ammunition. That official, the former Deputy Director of the NFPS, was suspended from duty and pay effective September 26, 27, and 30, 1991, for having provided ammunition to retired Customs employees for target practice. He was further transferred to Chicago on October 21, 1991.
- c. I am unable to determine the circumstances surrounding the presentation of the firearms to the former Deputy Commissioner and therefore, cannot say with certainty under what authority the firearms were presented to him. We believe, based on a recent discussion with our Chief Counsel's office, that Customs may give firearms to employees as commemorative awards, as long as they are rendered permanently non-functional and then mounted to emphasize their honorary status (e.g., on plaques with the Customs seal). We are currently reviewing our procedures on this issue to ensure we are in compliance with this position and will revise our procedures if necessary.
5. The range of disciplinary actions available to Customs managers when employees are found to have intentionally falsely certified a record, is found in the Customs Table of Offenses and Penalties and reads as follows:

Charge: Intentional falsification, misrepresentation, exaggeration or misstatement of material fact in connection with employment, promotion, travel voucher, transaction with the public, or any other record, investigation or other proper proceeding.

<u>First Offense</u>	<u>Second Offense</u>	<u>Third Offense</u>
5-day suspension to removal	10-day suspension to removal	Removal

The Table of Offenses and Penalties is intended as a management guide to be used in determining appropriate discipline. Depending upon the circumstances of the individual case, the penalty imposed may be greater or lesser than recommended above.

I agree with the Committee that false certification of a firearms inventory is a very serious offense warranting appropriate disciplinary action when intentional

falsification is proven. Customs has the tools to take corrective action through its disciplinary procedures and I intend to hold my managers accountable for addressing this issue. In addition to misconduct, I recently advised all Assistant and Regional Commissioners of their responsibility to consider firearms accountability as a performance issue when evaluating their managers on critical management responsibilities.

Although weapons accountability is a serious and significant issue, inventory certification errors are not always the result of intentional falsification. Once a determination is made that there exists a discrepancy in an inventory, the parties (usually NFPS and the field office responsible for the weapon) go through a reconciliation process where they attempt to ascertain the reason for the discrepancy. In many cases, the discrepancy is the result of an error or misunderstanding and is able to be resolved quickly between the parties.

Severe penalties would obviously be called for where the facts clearly demonstrate that an employee knowingly supplied wrong information and that this action was done with the intention of defrauding the agency. In the case of honest mistakes, misunderstandings, carelessness and some forms of negligence, however, less severe penalties may be warranted because these later categories do not rise to the level of intentional falsification. As in all instances of misconduct, managers should consider the specific circumstances of the case, including the motivation for the conduct when determining the appropriate discipline.

As indicated above, the inventory reconciliation process is essential to determining the basis for taking disciplinary action, i.e., the circumstances underlying the discrepancy and intention of the employee. This process has been made more difficult by the problems in our current Weapons Inventory Control Systems (WICS); due to these problems, many discrepancies cannot be tracked to an individual's failure to take an accurate inventory.

The redesign of WICS will greatly enhance our capability to monitor the status of weapons in the inventory, and thus, to pinpoint the cause of future discrepancies. In addition, we are now researching a proposal to expand WICS and integrate it with other automated systems to be developed, including weapons qualifications and employee separations and reassignments. The linkage between an officer's qualification with his/her assigned weapon, and an officer's changes in duty location, position and employment status with the inventory process would provide further measures for weapons control.

Although the enhancements to automated systems will provide us with the opportunity to identify discrepancies, we also need to establish and use accountability measures that will effectively deal with employee compliance. NFPS is now reviewing the inventory certification process to add specific tiers of employee/supervisory/managerial certification, with language that speaks to the meaning of each level's certification. The disciplinary penalties and the performance evaluation described above will provide the necessary framework for taking action.

In addition to these measures, we will rely on evaluations of firearms controls through the Customs Management Inspection Program, a new spot check process being implemented through the Office of Organizational Effectiveness, a separate spot check program operated by the National Firearms Program Staff, and the internal Management Controls Program, which includes firearms.

- a. The Department of the Treasury Office of the Inspector General (OIG) identified four 1991 firearms inventories where a complete physical inventory was not done. Customs has also independently identified an additional three potential sites with discrepancies in the inventory process outside of the 1991 firearms inventories.

- i. The four cases identified by the OIG audit were:

- 1) Special Agent-in-Charge, Los Angeles, CA
- 2) Air Branch, Albuquerque, NM
- 3) Glynco, GA
- 4) Special Agent-in-Charge, Miami, FL

The additional cases Customs has identified are located in the Office of Inspection and Control in Detroit, Miami, and El Paso.

- ii. The circumstances surrounding the four cases identified by the OIG audit and one of the cases Customs identified independently are currently under review by Customs management. Once the review is completed on these cases, Customs will be evaluating them to determine culpability and appropriate corrective actions and/or disciplinary actions.

I am advised that after review of the remaining two cases Customs identified independently, the following actions were taken:

- 1) Customs did not find that the responsible individual intentionally falsified a firearms document. The individual was counselled on March 15, 1993, for not site-verifying all weapons requested by NFPS. All requested weapons were located and sent to NFPS on October 1, 1992.
- 2) Customs did not find that the responsible individual intentionally falsified a firearms document. The weapon owner was issued an Official Letter of Reprimand on November 24, 1992, for violating Customs policy mandating that all personnel authorized to carry firearms be held to the highest possible standard of prevention of loss, misplacement, or theft of the firearm. The employee's actions resulted in the loss of her firearm in 1988.

iii. See above for date of discipline

iv. Customs did not find that the employees whose cases are referenced above intentionally falsely certified a firearms inventory. The employee who received a letter of reprimand was promoted in 1993 from the GS-9 to the GS-11 level.

- b. The 1992 Firearms Inventory instructions require certification by the responsible official that a physical inventory was completed. Inventories that are not properly certified are returned for certification. A copy of the instruction booklet and the forms used for the 1992 Annual Firearms Inventory are enclosed for your review (enclosure 1).

As indicated above, the Office of Enforcement is developing a new tiered inventory certification process which will be used in the FY 94 inventory (scheduled to occur at the time of conversion to the new WICS).

6. As reflected in our response to the OIG audit, Customs plans to fully address and implement all of the OIG recommendations, as well as taking other initiatives to advance the Firearms Program. To ensure that all the actions are acted upon timely, we have gathered a Firearms Task Force with representatives from each of the affected organizations and have tasked them with the specific OIG recommendations. The Task Force has met a number of times and will continue to meet until all of the OIG recommendations are fully implemented. Customs has already implemented a number of the OIG recommendations, as well as

Customs initiated changes. A few examples of completed actions include:

- 1) The new NFPS Director has a strong background in internal controls and is the former Director of the Office of Professional Responsibility, IA.
 - 2) The Commissioner issued a memorandum to all Customs Managers entitled, "Firearms Accountability in the Customs Service." The memorandum emphasized that supervisors at every level within the Customs Service are responsible for ensuring the accuracy of firearms inventory records for their organizational components, that compliance with directives and established procedures is required of all managers and that managers are responsible for ensuring that firearms issued to personnel who are separating or retiring are recovered prior to their departure. The Director, NFPS was instructed to ensure compliance and to refer discrepancies to the appropriate Assistant Commissioner for action.
 - 3) The Commissioner issued another memorandum reminding Assistant and Regional Commissioners to consider the accuracy of firearms inventories when evaluating managers' performance.
 - 4) The new WICS will include the previous manual weapons qualification process. With this information, Customs will have centralized data on qualification scores, types of weapons with which employees are qualifying, and personally-owned weapons approved for Customs use.
 - 5) The firearm destruction procedures were changed by the Director, NFPS to ensure that the individual responsible for destroying firearms is not the same person certifying the firearms as being destroyed.
- a. All of the actions should be completed by July 1, 1993, with the exception of the WICS redesign which is scheduled for completion by October 1, 1994.
 - b. The primary organizations at Headquarters which are responsible for implementing the firearms initiatives are the Office of Enforcement, the Office of Information Management, and the Office of Inspection and Control.

- c. The Office of Organizational Effectiveness (OOE) plays a key role in monitoring firearms program improvement activities. OOE is spearheading the Task Force's efforts and is responsible for ensuring that each affected office is on track in implementing their assigned actions. The Acting Associate Commissioner has chaired the meetings and has closely monitored the Task Force's progress on the required actions.
- d. Customs has recognized for some time that there were problems with the Firearms Program. We have taken an active role over the years in responding to the numerous problems identified by Mr. Humphreville, our own reviews, and that of the OIG in 1990. Our Firearms Program has undergone an extensive revamping from the late 1980s to its present state. We continue to upgrade the quality of the program, including providing the needed staff and resources. The numerous problems cited by Mr. Humphreville point out the complexity and difficulty of maintaining an effective firearms program free of any deficiencies. We are continuing to work on improving the Firearms Program and feel that by implementing the OIG recommendations, we will have made major strides in this area.
7. The repair and examination of personal weapons approved by Customs and used for official duties are legitimate expenses necessary for the Customs mission. Since these weapons are carried and used for official Customs purposes, the law permits Customs to repair them in the same manner, and under the same conditions, that it repairs Customs-issued weapons. Additionally, Customs Directive 4510-008, "Maintenance and Repair of firearms within the Customs Service" (January 18, 1990) provides for the repair of such weapons.

As you know, the "necessary expense doctrine" grants agencies reasonable discretion to determine how to carry out the objects of their appropriations. In the past Customs managers interpreted the "necessary expense doctrine" very broadly. This interpretation resulted in certain occasions where managers and supervisors allowed personal weapons that are not authorized for official use to be worked on using Customs resources. Customs new policy on personal or private weapons that are not authorized for Customs use and bear no relation to the Customs mission precludes the examination or repair of such weapons.

8. Current Federal Property Regulations do not allow for the conversion of government property (Customs-owned firearms) to personal use upon an individual's retirement or separation. This issue has been reviewed by the NFPS and Customs Chief Counsel's Office.

- a. Customs does not have authority to permit Customs officials to convert their Customs firearms to personal use upon their retirement or separation from Customs. In certain limited circumstances when a Customs Officer is issued a new handgun, the officer may be able to purchase the prior-issued weapon from the federal firearms licensed vendor with whom that weapon is sale/exchanged pursuant to 41 CFR 101-46.202(a). The enclosed legal opinion dated August 18, 1986, provides the rationale for this procedure (enclosure 2).
 - b. Customs is not aware of any Federal agency with such authority.
 - c. Customs does not think that we should have such authority. This would be a difficult procedure to manage due to the need to replace those firearms leaving the Service. Further, with dwindling resources for equipment purchases, the Service could find itself short of standard firearms for issuance.
9. Enclosed is a copy of the memorandum cited by the Acting Commissioner. This issuance has been distributed to all managers and supervisors (enclosure 3).
- a. As indicated above, compliance with the Headquarters firearms policies will be monitored in a number of ways. Through our performance management system, we can measure employee, supervisory and managerial adherence to Customs policies, firearms being one of them. Through our Management Inspection process, we will conduct specific program reviews to include inventory of firearms, their security, management accountability, firearms disposal, etc. Additionally, NFPS will also conduct spot checks on field compliance with firearms policies through use of WICS data. Disciplinary penalties will be imposed as appropriate for misconduct related to firearms inventory certification.
 - b. I consider deliberate, intentional non-compliance with the national Firearms Policy by any Customs employee to be a very serious act. I am committed to taking disciplinary action commensurate with the offense. As stated in my response to question 5 above, a disciplinary range of a 5-day suspension to removal is appropriate for the first offense of intentional falsification. Additionally, as previously stated, the accuracy or inaccuracy of firearms inventories will be considered when rating managers' performance.

- c. Ignorance of a given Customs policy is not an adequate excuse where it can be demonstrated that the policy issuance has been properly distributed to all managers or that a manager should have exercised prudent judgment by ensuring that the policy was reviewed before he acted. In these cases, the range of recommended disciplinary actions, absent aggravating or mitigating circumstances, that Customs may consider are found in the Table of Offenses and Penalties and reads as follows:

Charge: Failure or delay in carrying out orders, work assignments, instructions of superiors, policies and procedures, or loafing.

<u>First Offense</u>	<u>Second Offense</u>	<u>Third Offense</u>
Oral Admonishment to 2-day suspension	3-day suspension to 5-day suspension	14-day suspension to removal

10. Mr. Hensley's response during the hearing was not intended to mislead the Committee, but was based on Mr. Humphreville's official record at the time of the hearing. Since the hearing, Mr. Humphreville executed a waiver of a confidentiality agreement regarding certain aspects of his employment for purposes of responding to the Committee. With this waiver, I now feel free to state that Mr. Humphreville was removed from the Customs Service on May 24, 1991. He exercised his right to appeal his removal to the Merit System Protection Board. Following his appeal, Customs entered into a formal settlement agreement with Mr. Humphreville. The settlement agreement provided for, among other things, expunging all references to the denial of his within-grade increase and the removal action from his Official Personnel Folder and prohibiting the Customs Service and Mr. Humphreville to discuss the provisions of the settlement agreement with outside parties. Mr. Humphreville's official record, therefore, does not reflect those actions taken by Customs (the denial of the within-grade increase, proposed removal, effected removal).
- a. Since Customs had already issued its decision to remove Mr. Humphreville on May 16, 1991, no additional action would have been necessary to terminate Mr. Humphreville.
- b. At the time of the hearing, Customs Office of Human Resources (OHR) had confirmed that Mr. Humphreville had been separated from the Service on January 9, 1993, after OPM's approval of his disability retirement.

(Enclosure 4) Based on this information, Mr. Hensley testified that Mr. Humphreville "retired." However, since that date, OHR discovered that Mr. Humphreville was mistakenly separated from the rolls on January 9, 1993, due to an administrative error. The separation has been rescinded consistent with the terms of the settlement agreement.

Customs normal practice is to separate an employee from the rolls after receiving OPM's notice of disability retirement approval. However, this action was inconsistent with the terms of the settlement agreement referenced above. Mr. Humphreville has been restored to Customs roles consistent with the terms of the settlement agreement and is currently receiving OWCP benefits in a leave without pay status. He will remain in this pay status until October 4, 1993, when he will elect to either be separated from the Service or resign from the Service.

- c. At the time Mr. Hensley terminated Mr. Humphreville, Mr. Hensley did not consider Mr. Humphreville to be a whistleblower.
 - i. At the time the action was taken to remove Mr. Humphreville, Customs was aware that Mr. Humphreville had made a number of disclosures and that he considered himself to be a whistleblower. However, when Customs initiated the removal proceedings against him, it was the position of the Customs Service that his disclosures were not contributing factors in the decision to remove him. Rather, management had sound and documented performance-based reasons for the removal action. The history showed that Mr. Humphreville had been placed on two Performance Improvement Plans and while there had been some sporadic improvement on some of the critical elements, Mr. Humphreville could not maintain an adequate level of performance to warrant remaining in his position. In addition, Mr. Humphreville failed to provide any evidence to support the allegations that his supervisors were retaliating against him. The removal action was based on his unacceptable performance and not due to whistleblowing.

Since the time of these actions, new procedures have been established to provide employees with additional avenues for whistleblowing and related allegations of retaliation. The Office of Organizational Effectiveness (OOE), serves as the

central point of contact for employees who wish to report whistleblowing disclosures (waste, fraud, abuse, mismanagement, etc.) and/or reprisal concerns. Additionally, OOE conducts programmatic reviews through the management inspections program and spot checks, as well as investigations of specific misconduct issues through Internal Affairs.

As described in our response to question 10.c.v., employees may elect to refer such matters to the Associate Commissioner (OOE), who will initiate appropriate action to respond. These procedures are in addition to the rights afforded to employees to pursue their concerns through other agencies (e.g, the Office of Special Counsel, the Merit Systems Protection Board), however, OOE does not review matters already under consideration with another agency. If OOE had been established at that time, Mr. Humphreville could have elected to file his claims with the Associate Commissioner.

- ii. The May 16, 1991, final decision letter from Mr. Hensley to Mr. Humphreville states that Mr. Hensley did consider the allegations of retaliation. However, that letter also stated that Mr. Humphreville had failed in his written reply to provide evidence to support his allegations of reprisal.
- iii. As in any removal proceeding, Mr. Hensley, as the deciding official, reviewed all information available to him in order to reach a decision. That information would have included the documentation of the two PIPs, the original proposal letter (which outlined the specific reasons and examples of unacceptable performance), as well as Mr. Humphreville's written response to the proposed removal.
- iv. The primary purpose of the letters sent by former employees to the Office of Workers Compensation was to support Mr. Humphreville's disability claim. They state in their letters that due to the circumstances surrounding Mr. Humphreville's removal and the alleged acts of retaliation on the part of his supervisors, he became physically and emotionally disabled which eventually led to his inability to perform his duties. While the letters generally address the allegations Mr. Humphreville raises, the focus of the letters

is on Mr. Humphreville's emotional and physical well-being, rather than those reasons for which his removal was proposed. In addition, while the correspondence may appear to support Mr. Humphreville's claims at the time the letters were written, those officials were not in a position to make immediate judgments on Mr. Humphreville's performance. Therefore, their testimony lends little credibility to the reasons for which Mr. Humphreville was terminated. Mr. Hensley's position regarding this matter was formulated solely on Mr. Humphreville's performance.

- v. One of the main functions of OOE is to serve as the central point of contact for all allegations of mismanagement, whistleblower disclosures and allegations of reprisal due to whistleblowing.

Under our current procedures, employees can write to the Associate Commissioner (OOE) if they believe that they are being retaliated against due to protected whistleblowing. OOE reviews these allegations and, with the legal assistance of counsel, determines if a colorable claim of whistleblower retaliation exists. If a colorable claim does exist and an investigation is warranted, a specially trained investigator experienced in whistleblower inquiries conducts the investigation. Of course, if an employee has already filed a complaint with the Office of Special Counsel (OSC), then Customs does not investigate the reprisal claim since the OSC has primary jurisdiction for investigating claims of reprisal due to alleged whistleblowing. At the conclusion of Customs whistleblowing investigations, a Report of Investigation (ROI) which outlines investigative findings is then forwarded to the appropriate Assistant Commissioner/Regional Commissioner for management action. We believe that this system provides Customs employees and managers an internal mechanism to address issues of retaliation and reprisal.

If OOE had been in existence at the time Mr. Humphreville alleged he was being retaliated against due to his whistleblowing activities, his allegations of reprisal would have been handled under the above described process (unless Mr. Humphreville had already sought the assistance of OSC).

- d. i. Mr. Hensley's testimony related solely to the fact that while the IA report substantiated some deficiencies in management and internal controls, it did not support any misconduct by Mr. Parker. The management and internal control deficiencies referred to below were not being addressed by Mr. Hensley's testimony because he believed that the questions were directed solely to disciplinary misconduct by Mr. Parker. There was no intention to imply that Mr. Humphreville's allegations were entirely without merit.

Mr. Hensley's reference in his testimony was to an Internal Affairs ROI (IA ROI MI31NLJV0072) rather than an OIG report. This ROI, prepared by IA Special Agent Phillip Reed, detailed 14 allegations against the NFPS staff made by Mr. Humphreville.

The ROI revealed that there was no evidence of criminal activity regarding the 14 allegations. The ROI did, however, corroborate that several management control deficiencies existed at NFPS. Specifically, the ROI substantiated that insufficient control of ammunition was occurring due to inadequate internal controls. The NFPS Director was counselled in regard to this matter, and internal controls were implemented.

The ROI further substantiated that certain "poor management practices" regarding privately-owned weapons were being followed. This was the case with the M-1 carbine rifle owned by a friend of the NFPS Director. This weapon was examined by the armorers at the NFPS Director's request. For example, the ROI specifically states, "...allowing armorers to work on privately-owned weapons for personal use during duty hours would appear to be a poor management practice...".

Mr. Hensley determined that there was an appearance of impropriety in this ongoing practice and the practice has since been terminated.

- ii. Mr. Hensley was also aware of allegations on Mr. Conger and Mr. Pendleton. The allegations resulting in Mr. Conger's suspension were addressed in a separate ROI (MI31NLJV0085). There were no adverse findings in this ROI on the allegations against Mr. Pendleton.

- iii. Mr. Humphreville made a number of allegations at the hearing, as well as in other venues, which were not mentioned by him in his statement contained in the above ROI nor in grievances he had filed.

These allegations included matters such as NFPS employees allegedly lying to the OIG, the Miami weapons seizure issue, the issue of the Swiss Lugars, and the transfer of M14 rifles to the Anne Arrundel County Sheriff's Office and others.

A number of the allegations had been submitted by Mr. Humphreville to entities outside of OE by his written memorandums and/or statements. However, Mr. Hensley was unaware of these assertions and was only provided the allegations recorded in the ROI and the grievance files, which included the Fact Finders report detailed below.

With respect to Mr. Hensley's testimony regarding communication between Mr. Humphreville and himself, it is important to clarify the context in which his statements were made. Mr. Hensley was speaking of direct communication between Mr. Humphreville and himself. Mr. Hensley had reviewed his personal correspondence files and telephone logs and had determined that no direct communication had taken place. However, there was written communication to OE from Mr. Humphreville of which Mr. Hensley was not aware.

As in many organizations, the volume of mail precludes the addressee from personally receiving each piece of correspondence. Issues such as personnel-related grievances are all routinely mailed and received by the Office of the AC(E) and are routed to OHR or appropriate staff members to be handled. In situations where an employee is involved in ongoing disciplinary, performance, or other related matters, material submitted to the AC(E) would be referred so that it could be made a part of a comprehensive file dealing with the matter. The certified letter sent by Mr. Humphreville specifically dealt with his grievance, and was not initially read by the AC(E). It was forwarded to the office handling the grievance. From the AC(E) perspective, the alleged retaliation claimed by Mr. Humphreville was disposed of by the Fact Finder's finding that Mr. Humphreville's allegations were unfounded.

- e. After Mr. Humphreville was reinstated pursuant to the MSPB stay, he assumed the same type of responsibilities (i.e., research duties) that he had prior to receipt of the removal letter. Due to the short time he remained at work after being granted the stay (June 30 through July 16), no research projects were completed.
- f. Mr. Humphreville's office setting was moved from the Weapons Support Branch to the Field Liaison Branch upon his reinstatement. The office space and equipment that Mr. Humphreville had in this new location was comparable to the equipment and space he had in his prior branch. In the Weapons Support Branch, Mr. Humphreville's desk was located in the entrance way into that building. He also had a memory typewriter and telephone. In the Field Liaison Branch, his desk was located in a large open room shared with five other employees of equal grade. His desk was separated from one employee next to him by a partition and he shared a phone with another employee adjacent to him. He also had a memory typewriter.

- 1. Customs has sponsored competitive shooting teams off and on for decades. In February 1982, Commissioner William Von Raab approved the formation of a Customs Service Pistol Team to foster pride in the Customs Service and to develop greater interest in marksmanship. The program was administered by the Customs training staff at Glyngo, Georgia. The team was formed to compete in Police Pistol Combat (PPC) competition and distinguished itself in national and international competition. Team members also pursued other competitive disciplines as they arose to foster the image of the Customs Service. However, the Customs National Pistol Team has only been partially funded since FY-89, seriously limiting the team's ability to compete.

Prior to 1982, competitive teams were funded at the local level. Some individual competitive shooters have been sponsored by Customs. After the formation of the national team, local teams and individuals were also sponsored as local managers' funds permitted. Several individuals throughout the Customs Service have been partially assisted with ammunition and ordnance support in high power rifle shooting.

- a. The initial team that was formed in 1982 had to supply their own firearms, leather gear and personal shooting accessories. Ammunition was provided. As time went on, competition firearms became available for team members. NFPS continues to support Customs Officers that request gunsmithing service for competitive

firearms. The current standard operating procedures at NFPS for marksmanship teams are listed in a memorandum dated September 12, 1990. That document states: "Personnel competing for a position on a Customs Marksmanship Team will supply their own weapon, leather and accessories. Team members may be supplied weapons, equipment, and accessories when available." Ammunition for customs Marksmanship Teams is supplied by the Service. However, team members are allowed to use their own ammunition in competition.

- b. Customs Officers are authorized to use Customs firearms or ammunition for any activities relating to competitive shooting.
- c. When funds are available for support, team members are authorized to use Customs firearms and ammunition in matches approved by the team administrator. Also, team members are encouraged to compete in other regional and state matches that are close to their post of duty. However, travel costs and expenses related to these matches are absorbed by the individual team member. Team members are authorized to use Customs firearms and ammunition when available for two primary reasons.
 - i. Many federal law enforcement agencies field competitive shooting teams. State and local law enforcement organizations are represented at officially sanctioned regional and national matches. Competitive shooting teams enhance the public image of the agency they represent.
 - ii. The competitive marksmanship program has helped create interest throughout the Customs Service in marksmanship skills. A law enforcement officer with highly developed marksmanship skills is more likely to use better judgment in the use of a firearm.
- d. Local Customs managers have always been encouraged to foster competition shooting. The purpose of this support is not only to build and support competitive shooting teams, but to enable individuals to improve their marksmanship skills and thus effect the performance of official duties of the team members. Under this premise, as indicated in the response to question 11, Commissioner William Von Raab approved the formation of a Customs Service Pistol Team in February 1982.

12. a. Enclosed is a copy of the Customs Directive, dated January 6, 1993, which provides the policy and assignment of responsibility regarding the processing of contraband substances, as well as related procedures. (Enclosure 5)
 - b. Yes. Customs provided a copy of the above referenced Customs Directive to the OIG in response to the OIG Audit 93-043, Recommendation No. 1.
 - c. The OIG field offices conducted the reviews at the district and Special Agent-in-Charge offices at five locations, Houston, Miami, New York, Detroit and Los Angeles, as well as the Headquarters Seizure and Penalties Division. There have been no OIG audits specifically targeting narcotics and controlled substances in the last five years. Customs Office of Management Inspections routinely reviews the handling and storage of seizures including narcotics and controlled substances.
 - d. Yes. The OIG Report 93-043 which consolidates the five separate audit reports was issued on March 25, 1993. The report is entitled, "Consolidated Audit Report of Seized Property Held by the U.S. Customs Service".
13. The design and development of the WICS I and WICS II over the years involved the collaboration of different organizations and several different personnel within the Customs Service, as well as outside contractors.
 - a. During the development of WICS I and WICS II automation, 1985-1989, the responsibility for the review of implementing automated systems involved several individuals. In an effort to expedite the WICS I system development, the full requirements of the Treasury IRM policies were not adhered to. It is important to note that WICS early development was prior to the creation of the Office of Information Management (OIM). With the creation of OIM, the organizational structure for supporting systems development efforts and the life cycle process itself have been enhanced. New standards now available within OIM emphasize the importance of an integrated development process which addressed both external and internal requirements. It also has a schedule for conducting risk assessments in compliance with the Treasury's IRM directives.
 - b. The IRM design process is complicated and involves constant coordination and communication. Thorough design is sometimes jeopardized by the priority to develop a system in a hurry. So as to not risk this

during the development of the WICS 3, Customs new strategy is to proceed cautiously when developing the system or making major modifications to the existing system. The Software Development Life Cycle (SDLC) process emphasizes the users up-front participation in defining information needs and requires a review and approval process throughout the stages of development. The formal SDLC includes descriptions of the appropriate Treasury, OMB and/or FIPS Guidelines that should be referenced and appropriately adhered to as part of the development process. The Office of Technology Assessment (OTA) which was established in the September 1990 reorganization of the Office of Information Management is now separate from the applications development organizations and includes Quality Assurance (QA) responsibilities. The Quality Assurance function within OTA will assess each organization's progress at adhering to established guidelines.

The WICS system underwent a massive revision over the years and Customs realized there were features that could improve its effectiveness, but implementation occurred as the program evolved. During the OIG audit, on-going development efforts of WICS was delayed. However, in addition to Customs, the AGUE, through its audit process, identified several enhancements needed by Customs. Many features such as stricter edits, table-driven data field values used in edits, weapon routing authorizations and tracking, employee certification and firearm training tracking, and new reports are presently under development. Customs intends to include several improvements in the WICS 3 version including those specifically identified in the OIG audit.

To assure adequate user participation in the definition of information needs and system requirements, a meeting was held during the week of June 21, 1993, with representatives from the Offices of Enforcement, Inspection and Control, Internal Affairs, Information Management, and Organizational Effectiveness. The representatives discussed all of the requirements that must be included in the new weapon inventory system, taking into consideration any weaknesses that have been identified in reviews of the present inventory system.

Through this indepth review, Customs is now looking at all of the systems and procedures used to track firearms and activities related to weapons use in the Service. We will take the opportunity presented by WICS redesign to automate virtually all functions

associated with firearms and integrate them into the WICS. At this point, we anticipate these functions will include firearms qualification, employee separations and transfers and advanced tactical training. With this additional information, Customs will be able to produce management reports that will be used to assist them in their control responsibilities.

14. a. Conditions under which Customs Special Agents carry firearms in foreign countries vary significantly. In most European countries, the informal verbal authorization of host government authorities is sufficient to permit Customs Special Agents assigned to American Embassies to carry firearms. In Mexico, the Military, through the Mexican Department of Defense, issues permits authorizing Customs Special Agents assigned to the Embassy to carry firearms.

Without specific authorization from appropriate law enforcement representatives of the host government, Customs Special Agents do not carry firearms overseas.

- b. In practice, the Customs Attache advises the Ambassador and the Regional Security Officer of all instances where, host government law enforcement counterparts authorize Customs Special Agents to carry firearms in a foreign country.

If appropriate, host government authorities permit U.S. Customs Special Agents assigned to a Customs Attache or Senior Customs Representative field officer to carry firearms, and if the Ambassador and Regional Security Officer at post concur, then the U.S. Customs Service allows the Special Agents to carry firearms in the country.

The Office of Foreign Operations coordinates the transfer of Customs-owned firearms (or Service approved personally owned firearms) from headquarters to Post through the Department of State. The Office of Diplomatic Security arranges the actual transfer of the firearm from the U.S. to the Regional Security officer for delivery to the Special Agent at Post.

The Office of Foreign Operations also coordinates the operational international travel involving members of the Office of Enforcement. In instances where Special Agents are required to travel in an armed status, the Office of Foreign Operations coordinates both the

foreign travel and the transportation of service-issued/authorized firearms with the appropriate Customs Attache and with host government law enforcement authorities.

- c. The U.S. Customs does not have any formal agreement with host countries concerning the carrying of firearms.

Host government authorities have been reluctant to enter into formal written agreements which authorize foreign law enforcement officers to carry firearms in the host country.

- i. Not applicable.
- ii. Not applicable.

Enclosure 1

1992 Annual Firearms Inventory
General Information Booklet



National Firearms Program Staff
Weapons Support Branch
P.O. Box 2442
Fort Benning, Georgia 31905-5000

VOICE: (706) 645-7892
FAX: (706) 645-7399

1992 Annual Firearm Inventory Instructions

I. Overview

The 1992 Annual Firearms Inventory will begin early November, 1992. Each Special Agent in Charge, District Director, Area Director, and other major offices will receive a packet consisting of:

- (1) These instructions, and
- (2) A packet of Firearm Inventory Records (from the Weapons Inventory Control System, WICS) for each subordinate office.

In general, each packet contains inventory forms for offices at the RAC and port levels; sometimes they have been broken down even further.

For your convenience, NFPS has broken down the inventory forms by organization codes for each unit under your area of responsibility. Each SAC, DD, AD, or other major office is responsible for distributing the materials to subordinate offices. However, the method of distribution is left to your discretion.

The inventory process has changed somewhat from last year. The most notable change is that NFPS will provide all materials (specifically the Firearm Inventory Record, described below) that you will need for the inventory.

II. The Firearm Inventory Record

The Firearm Inventory Record (see Figure 1) is the official document of the 1992 Annual Firearms Inventory. It is a printed form of firearm and responsible official information that NFPS is required to maintain according to Firearms Policy. If any of the information on the Firearm Inventory Record is incorrect, make the changes on the form and attach supporting documentation, when required.

Paragraph A: Firearm Information.

- (1) **Make.** The make of a firearm refers to the manufacturer of the firearm. This block will have either the name of the manufacturer (for common makes such as Smith & Wesson) or the three letter National Crime Information Center (NCIC) code for the manufacturer of the firearm. Contact the NFPS Weapons Support Branch if you have any questions about the manufacturer or NCIC codes.

1992 Annual Firearm Inventory Instructions

Firearm Inventory Record
 National Firearms Program Staff, Fort Benning, Georgia
 1992 Annual Firearms Inventory

All Data Verified and/or Correct(ed): _____
 [NFPS Use Only: 9202133/911205/ 30]

- [A] Firearm Information
1. Make..... REMINGTON
 2. Model..... 870
 3. Serial Number.. V807892W
 4. Type..... Shotgun/Pump
 5. Caliber..... 1200
 6. Barrel Length.. 1400
- [B] Responsible Individual
1. Name..... PARKER, J.E.
 2. Social Security Number... 123-45-6789
 3. Disposition Code..... 03
- [C] Location of Firearm
1. Organization..... NAT FIRE PGM STAFF
 2. Organization Code..... 00300020

All Data Verified and/or Correct(ed): _____
 [NFPS Use Only: 9202133/911205/ 31]

- [A] Firearm Information
1. Make..... REMINGTON
 2. Model..... 870
 3. Serial Number.. V807830W
 4. Type..... Shotgun/Pump
 5. Caliber..... 1200
 6. Barrel Length.. 1400
- [B] Responsible Individual
1. Name..... PARKER, J.E.
 2. Social Security Number... 123-45-6789
 3. Disposition Code..... 03
- [C] Location of Firearm
1. Organization..... NAT FIRE PGM STAFF
 2. Organization Code..... 00300020

Figure 1 - Firearm Inventory Record

1992 Annual Firearm Inventory Instructions

(2) *Model.* Most manufacturers distinguish firearms with a model name or number. Smith & Wesson commonly uses a number (686, 6906, 15, 66, etc.) which is found on the yoke when the cylinder is in the reload position. Other manufacturers may use names which are often inscribed on the barrel or receiver.

(3) *Serial Number.* The serial number is a string of alphanumeric characters which uniquely identifies the firearm receiver. See Section VI, Serial Numbers, below, for a discussion of where they are located on various service firearms. It is absolutely essential that the serial number is correct. If there is a serial number error, contact the NFPS Weapons Support Branch immediately at (706) 649-7892.

(4) *Type.* The firearm type is actually comprised of two descriptions separated by a slash (e.g., Shotgun/Pump). The first description identifies the kind of firearm, the second describes the function of the receiver.

There are four kinds of firearms identified:

- (a) Handgun
- (b) Rifle
- (c) Shotgun
- (d) Other (none of the above types)

There are seven functions identified:

- (a) Automatic
- (b) Bolt Action
- (c) Lever Action
- (d) Pump Action
- (e) Revolver
- (f) SemiAutomatic
- (g) Other (none of the above types)

(5) *Caliber.* The caliber field, which is four characters long, is used to code both caliber and gauge. The coding system is not perfect (some special calibers can fall through the cracks) but is sufficient for the present purposes.

1992 Annual Firearm Inventory Instructions

Caliber refers to the diameter of the bore and is given in thousandths of an inch or in millimeters. Calibers are coded using the last three characters of the field. For example, a .357 would appear as 0357. A .22 caliber rifle would be 0220. A .38 Special could be 0380 or 038S.

Gauge, for shotguns, is awkward to describe, but we will give it a try. In short, gauge refers to the diameter of equally sized balls taken from a pound of lead. Hence, the barrel diameter of a 12 gauge shotgun equals the diameter of each of ball if twelve equal sized balls are made from a pound of lead. Gauge is represented by using the first two digits of the caliber field. Twelve gauge is 1200, 16 gauge is 1600.

(6) *Barrel Length.* The length of the barrel, from the beginning of the chamber to its forward end (do not include the flash suppressor). Barrel length is measured to the nearest half-inch but coded to the nearest hundredth of an inch on the Firearm Inventory Record.

Paragraph B: Responsible Individual.

- (1) *Name.* Name of the individual responsible for the firearm.
- (2) *Social Security Number.* The Social Security Number of the individual in Paragraph B1, above.
- (3) *Disposition Code.* Most firearms will have a Disposition Code of either "01" or "02" depending on the type of firearm and its assignment.

Handguns. If a handgun is assigned to an individual as his or her primary firearm, then the Disposition Code should be "01". If the handgun is a spare office gun, then it should be assigned a Disposition Code of "02".

Long Guns. Long guns should all be assigned a Disposition Code of "02", but can be assigned to either an individual or the Senior Customs Officer in the office.

To change the status of a firearm from "01" to an "02" (or back), a signed and dated Customs Form 259 must be submitted with the Firearm Inventory Record.

1992 Annual Firearm Inventory Instructions

There are also some other common Disposition Codes that you may run across:

- (a) 06 - These denote firearms which are used in the Explorer Program. If you have Explorer guns which are not coded as 06, please change the Disposition Code on the Firearm Inventory Record.
- (b) 12 - These are firearms on loan to Customs Service from another agency. You may encounter firearms with this Disposition Code if you have flash or undercover guns.

Paragraph C: Location of Firearm.

- (1) *Organization.* The title of the organization where the responsible individual is assigned.
- (2) *Organization Code.* The six-digit Organization Code where the responsible individual is assigned.

As many of you are aware, the Organization Code is assigned to an individual via the Payroll File from Department of Agriculture. As time goes on, many of the problems with Organization Codes should clear up. If you have a persistent problem, however, let us know and we will pass the information along to the computer people in Washington and Newington.

III. Completing The Inventory.

All firearms must be *PHYSICALLY* inspected to verify that the make, model, serial number, barrel length, and caliber are correct on the Firearm Inventory Record. To repeat: All firearms must be *PHYSICALLY* inspected. Discrepancies with make, model, barrel length, or caliber should be noted on the Firearm Inventory Record by writing the correct information beside the old.

Note --> If there is an error with a serial number, do not change it: You must contact NFPS immediately.

1992 Annual Firearm Inventory Instructions

As you complete the Firearm Inventory Records, at least six situations can occur. Remember, however, that you must initial and date the Firearm Inventory Record to verify the data.

(1) *Firearm Inventory Record Correct.* If the Firearm Inventory Record is correct, initial and date the record in the space provided.

(2) *Firearm Inventory Record Incorrect.* If the Firearm Inventory Record has any incorrect information, annotate the Firearm Inventory Record with the correct information. Remember: If there is a serial number problem, contact NFPS.

If the Firearm Inventory Record has an incorrect responsible official assignment, make the correction(s) and attach the appropriate document(s) to authorize the change. The most common documents used are the Customs Form 259, Personal Clothing and Equipment Record, and the Customs Form 33, Property Transfer Action. For the proper use of these forms as they relate to firearm transactions, see Section VII, "Forms", below.

(3) *No Firearm Inventory Record For A Firearm.* If you have a firearm with no corresponding Firearm Inventory Record, then complete a blank Firearm Inventory Record (a blank master copy is included, make more copies if they are needed), attach any appropriate documentation (Customs Form 259, Customs Form 33), then submit it with your inventory.

(4) *Firearm Inventory Record But No Firearm.* If you have a Firearm Inventory Record but no firearm, it is possible that the officer responsible for the firearm left your office between the time the Firearm Inventory Records were printed and when you received them. Annotate the record and attach the appropriate documentation if this is the case.

It is also possible that you received FIRs for a different organization. If so, and if you happen to know where the FIRs should go, you can forward them to the correct organization, or send them back to NFPS with a note telling us of the problem. Either way, your assistance will be greatly appreciated.

1992 Annual Firearm Inventory Instructions

Note --> Remember, you are responsible for all firearm transfers from your office until WICS is modified. WICS can only be modified with a properly completed transfer document, generally a Customs Form 33 or 259.

(5) *Lost Or Stolen Firearm.* If a firearm has been lost or stolen, consult Customs Directive 4510-011, U.S. Customs Firearms Policy, for guidance. The firearms policy states "Customs officers shall immediately report the loss or theft" of firearms to NFPS. In order to remove a lost or stolen firearm from your inventory, we require you to send NFPS a copy of the memorandum which was sent to Internal Affairs plus a copy of the NCIC report.

(6) *Other.* If there are any other problems, contact the NFPS Weapons Support Branch at (706) 649-7892. If there are problems, do not hold up the entire inventory. Submit your inventory at the appropriate time. We will work with you individually to resolve any problems that remain. Remember: Individuals on temporary duty or leave do not constitute problems.

Note --> If an individual's firearms cannot be verified (e.g., temporary duty, annual leave) contact the person and have them submit a written statement verifying the make, model, and serial number of the firearm.

V. *Submitting The Inventory.*

When you have completed the inventory (remember, do not hold up submitting the inventory because of problems - give us what you can by the suspense date), return all materials to your SAC, DD, or AD office (or other office in your chain of command). They will forward the packet to NFPS.

1992 Annual Firearm Inventory Instructions

Note --> Please include the telephone and facsimile machine numbers of the contact person. This will aid NFPS in solving problems.

Each inventory must be accompanied by a cover letter indicating a point of contact (Firearms Officer, Range Officer, Property Officer) for that particular office. The signature on the letter by the SAC, DD, AD, or other Customs Official, will certify that all information is current and correct.

VI. Serial Numbers.

Firearms have a variety of numbers recorded on them. It is important that the serial number be verified and not a frame or part number. If there is any doubt about the location of the serial number on a particular firearm, please call (706) 642-7892, Extension 42, and speak with our armorers.

Note --> In the descriptions below, "left and right sides" refer to the sides of the firearm when it is held in the normal firing position.

(1) **Smith & Wesson Revolvers.** The serial numbers for Smith & Wesson revolvers (Model 60, 636) can be found on the butt of the gun. The grips may have to be removed. Do not use the number located by the yoke - these numbers are the source of many erroneous serial numbers.

The serial numbers for the 686's consist of three letters followed by four numbers (such as ANF0091). J and K frame revolvers usually have some combination of one letter and four, five, or six numbers (1K23539, J67998, 22K9834).

1992 Annual Firearm Inventory Instructions

(2) *Smith & Wesson Pistols.* On pistols (such as Models, 6946, 6905, etc.), the serial number is found on the left side of the receiver, above the trigger and opposite the ejection port. The serial numbers are usually three letters followed by four numbers (e.g., THC8976).

(3) *Steyr AUGs.* The Steyr will have numbers on both barrel and the receiver, and the majority of the time they will match. However, only the number on the receiver is a valid serial number. The format of the serial number on most AUGs is the letters "USC" followed by four letters (USC1340). Some early AUGs have only five numbers (24800).

(4) *Remington 870s.* The serial number is found on the lower left side of the receiver. Generally, serial numbers for the Remington 870 begin and end with a letter and have six numbers in between (W807679M), but there are exceptions.

(5) *Other Firearms.* If you are unsure of the location of a serial number on any firearm not discussed above, call the NFPS Weapons Support Branch for assistance. Our armcrers will be more than happy to assist you.

VII. *Non-Standard Firearms.*

All non-standard firearms should be returned to NFPS (see Section IX, Shipping Instructions, below), unless they are specifically authorized for use by Director, NFPS, or are in use in a undercover operation. NFPS must have supporting documentation for any undercover operation in order to approve special firearms.

VIII. *Forms.*

Below are abbreviated guidelines for the use of the Customs Form 259 and the Customs Form 33 as they apply to firearm transactions. If you have any specific questions, call the NFPS Weapons Support Branch at (706) 649-7892.

<p>Note --> Forms must be signed and dated in order to be valid.</p>

1992 Annual Firearm Inventory Instructions

(1) *Customs Form 259*. A copy of the Customs Form 259 should be attached if a firearm has been assigned to an individual (Disposition Code 01) or an individual has returned a firearm (Disposition Code 02). Disposition 02 indicates the firearm is assigned to the local office under the social security number of the highest ranking U.S. Customs Officer in that office.

(2) *Customs Form 33*. The Customs Form 33 is used when firearms transfer between offices. The Customs Form 33 must be signed and dated by the receiving office then forwarded to NFPS in order to authenticate the change.

IX. *Shipping Firearms and Ammunition to NFPS.*(1) *Firearms.*

Ship all non-standard or excess firearms to:

United States Customs Service
National Firearm Program Staff
Building 83
P.O. Box 2440
Fort Benning, Georgia 31903

Attention: Mr. George Floyd

The best method to ship firearms is to use UPS or Federal Express; if you prefer to use U.S. Mail, be sure to send the package Registered Mail.

(2) *Ammunition.*

Ammunition and primers should only be sent to NFPS via UPS. Use the same address as listed above, and remember to observe the 70 pound per box weight limit for UPS.

If you have any questions, call NFPS at (706) 649-7892, Extension 44, and ask to speak with Mr. Rickey Gibson or Mr. George Floyd in Shipping and Receiving. They will be glad to assist you with any questions you might have with shipping firearms, ammunition, and other firearm related material.

*1992 Annual Firearm Inventory Instructions***X. Finally.**

We hope that this booklet has been of some help. Please keep it around as a general reference guide for year-round use. If you have any suggestions for improvements to the firearm accountability system we would like to hear them. Contact the NFPS Weapons Support Branch at (706) 649-7892.


 DEPARTMENT OF THE TREASURY
 UNITED STATES CUSTOMS SERVICE

 PERSONAL CLOTHING AND
 EQUIPMENT RECORD

3236, P & PM

 Use INK or TYPE all entries. Signatures and dates required.
 Additional instructions on reverse.

1. NAME (Last, First & Middle Initial)	2. 7-DIGIT LOCATION ACCOUNT CODE
3. SOCIAL SECURITY NO.	4. DOCUMENT NO. (8 characters or less)

5. TYPE OF ARTICLE (Indicate condition of each article. Example: Good, bad or poor)	6. SERIAL NO. AND MANUFACTURER (Use Mfg. Code if known)	7. ISSUE DATE (s)							8. TURN-IN DATE (s)(s)								
(1) BADGE (incl. badge title)																	
(2) WEAPONS (Model, cal., barrel length)																	
(3) CREDENTIAL																	
(4) CREDIT CARD																	
(5) KEY/KEY SETS (Last type, e.g., for car)																	
(6) BINOCULAR, NIGHT SCOPE																	
(7) CAMERA, TV EQUIP.																	
(8) CALCULATOR, RECORDING EQUIP.																	
(9) OTHER OFFICE EQUIP.																	
(10) ADP EQUIP.																	
(11) COMMUNICATIONS EQUIP.																	
(12) GUN HOLSTER, LEATHER GEAR																	
(13)																	
(14)																	
(15)																	
(16)																	
(17)																	
(18)																	
9. ACKNOWLEDGEMENTS: The individual signing, to whom property is issued, agrees to be responsible and accountable for the safeguard and care of the issued property identified above and will be held financially liable for loss or damage unless relieved by Survey action or otherwise relieved by suitable return of the property to the Local Property Officer (LPO).	(a) To show issue or turn-in of an item(s), mark (X) the appropriate small block(s) under the indicated date.																
10. REMARKS	(b) When equipment transfers with the individual also mark (✓) the appropriate equip. block under the turn-in date and note the new location code.																
	SIGNATURE OF INDIVIDUAL & Local Property Officer's initials							SIGNATURE OF PROPERTY OFFICER & individual's initials									

 DISTRIBUTION:—White—LPO Yellow—Individual
 Pink (Badges/Weapons)—RPMO/PMO or Prop. Coordinator

Customs Form 259 (121284)



DEPARTMENT OF THE TREASURY
UNITED STATES CUSTOMS SERVICE
PROPERTY TRANSFER ACTION

Enclosure 1 (SEE INSTRUCTIONS ON REVERSE)

1. DOCUMENT IDENTIFICATION NUMBER

2. DURATION OF TRANSFER Permanent Temporary (Loan) IF TEMPORARY, LOAN EXPIRATION DATE:

3. TRANSFERRED FROM

ORGANIZATION NAME AND ADDRESS

4. TRANSFERRED TO

ORGANIZATION NAME AND ADDRESS

ORGANIZATION CODE

PHONE NUMBER

ORGANIZATION CODE

PHONE NUMBER

5. PROPERTY ID NO.	6. QUANTITY	7. ITEM NAME AND DESCRIPTION	8. CONDITION CODE

9. REMARKS

10. LOCAL PROPERTY OFFICER OR APPROVING OFFICER TITLE AND SIGNATURE

11. RECEIVED BY (Title and Signature)

12. GAINING LOCAL PROPERTY OFFICER SIGNATURE

13. SHIPPED OR DELIVERED BY (Signature)

PART 1 (White)—Transferor

PART 2 (Yellow)—Shipping (if applicable)

PART 3 (Pink)—Transferee

PREVIOUS EDITIONS ARE OBSOLETE.

Customs Form 33 (121489)

CFS 13250

DATE AUG 18 1986

FILE: ENF-5 CC:JEL
AL-86-0122
AL-86-0159

TO : Director, Office of Human Resources

FROM : Chief Counsel

SUBJECT: Disposition of Customs Firearms

This is in response to your memorandum dated March 5, 1986, asking whether there are any legal impediments to a Customs officer purchasing his issued handgun prior to the issue of a new handgun, or to Customs using the funds received from such a sale toward the purchase of replacement handguns. You ask these questions in the context of Customs program to improve and standarize handguns issued to Customs officers.

In general, if the requirements of the sale/exchange regulations are met, funds collected as a result of sale or exchange of personal property can be used to purchase replacement property. See 41 CFR 101-46.202(a). Moreover, although weapons are included among items expressly not eligible for sale/exchange procedures (41 CFR 101-46.4801), Customs has a waiver from GSA to permit use of sale/exchange procedures to exchange weapons on a one for one basis for allowances on replacement costs (copy of waiver attached). Thus, by exchanging old weapons for new ones with the manufacturer, Customs may receive allowances on replacement costs.

In order for Customs employees to purchase their weapons, it would be necessary for an arrangement to be worked out with the manufacturer by interested Customs employees for the exchanged old weapons to be sold by the manufacturer to the employees for the amount of the allowance (or slightly higher amount to include a service charge). In this way, the manufacturer would receive the full purchase price of each weapon, the largest part from Customs and the remainder from the employee who purchases the exchanged weapon from the manufacturer. Moreover, by purchasing from the manufacturer, Customs employees would avoid the Code of Conduct prohibition (31 CFR 0.735.37) against purchasing Government property offered for sale by the Customs Service. Thus, Customs would be exchanging weapons with the manufacturer and, at a later time, the manufacturer would sell the exchanged weapons to the employees.

If you have further questions, please call Mr. John Lehman of this office, at 566-6245.

(signed) Stuart P. Seid

Michael T. Schmitz

Attachment


THE COMMISSIONER OF CUSTOMS

WASHINGTON, D.C.

March 11, 1993

FAC 9-03 E:N

MEMORANDUM FOR ALL CUSTOMS MANAGERS AND SUPERVISORS

 FROM: Acting Commissioner of Customs *[Signature]*
 SUBJECT: Firearms Accountability in the Customs Service

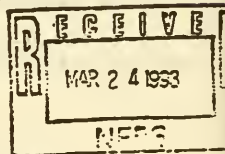
During the past year, the Customs Service has been under intense scrutiny from the Department of the Treasury, Office of the Inspector General (OIG), and the House Committee on Ways and Means, Subcommittee on Oversight. An area common to both probes has been the accountability of firearms within the Customs Service.

The major objective of the OIG audit was to evaluate the effectiveness of firearms accountability in the Service. Findings of the OIG audit point clearly to the need for increased management attention to the issue of firearms accountability.

The OIG audit report showed that there were efficiency and effectiveness problems and a lack of adherence to established policies and procedures at the field level concerning firearms accountability. The report showed that:

1. Field units did not provide the National Firearms Program Staff (NFPS) with complete, accurate, and timely information on firearms status changes.
2. Some annual inventories were not taken, were incomplete, or obviously were not certified by physical verification.
3. Separated and retired employees were found to have not turned in their firearms before their departure.

The OIG report states that these problems continue to exist because "... in our opinion, USCS management, at all levels, has not devoted sufficient attention to firearms accountability. USCS management needs to correct these weaknesses to eliminate the risks associated with losing control over firearms."



- 2 -

The Firearms Policy, Customs Directive 4510-011, revised December 10, 1992; Firearms and Ammunition Acquisition, Issuance and Accountability, Customs Directive 4500-11, dated December 6, 1989; and the 1992 Annual Firearms Inventory booklets (distributed by NFPS) address the procedures to follow concerning firearms accountability. I cannot overemphasize the importance for all managers to be thoroughly familiar with these directives and to insure proper control and accountability of firearms within your areas of responsibility.

Supervisors at every level within the Service are responsible for insuring the accuracy of firearms inventory records for their organizational components and/or coordination with and support of the efforts of the Director, NFPS, in maintaining the accuracy of firearms inventory records.

Compliance with directives and established procedures is required of all managers. Firearms accountability depends on interrelated information from field units, the NFPS, and the Weapons Inventory Control System. Managers are responsible for insuring that:

1. NFPS is promptly informed of all firearms status changes, such as when firearms are reassigned, change organizational units or are lost/stolen.
2. Firearms issued to personnel who are separating or retiring are recovered prior to their departure.
3. Organizational units perform an annual physical inventory of their firearms and certify their inventory submissions to NFPS.
4. Seized firearms are promptly shipped to NFPS after forfeiture and that General Order firearms are transferred to NFPS immediately after the 1-year holding period has expired.

The Director, NFPS, has been instructed to insure compliance and to refer discrepancies to the appropriate Assistant or Regional Commissioner for action. Policy mandates that proper and accurate accountability for all firearms be maintained and I am committed to that goal.

Questions concerning this memorandum should be directed to the National Firearms Program Staff at (706) 649-7892.

Standard Form 50-8
Rev. 7/81
U.S. Office of Personnel Management
FPM Supp. 296-33, Subch. 4

NOTIFICATION OF PERSONNEL ACTION

1. Name (Last, First, Middle) MUMPHREVILLE, MARK K		2. Social Security Number 248-78-6801	3. Date of Birth 11/09/46	4. Effective Date 01/09/93
FIRST ACTION		SECOND ACTION		
5-A. Code 301	5-B. Nature of Action RETIREMENT DISABILITY	6-A. Code	6-B. Nature of Action	
5-C. Code S1M	5-D. Legal Authority REG 531.1203	6-C. Code	6-D. Legal Authority	
5-E. Code	5-F. Legal Authority	6-E. Code	6-F. Legal Authority	

7. FROM: Position Title and Number EQUIP SPEC'LST CRONC 10R60003 10R600	15. TO: Position Title and Number
---	-----------------------------------

8. Pay Plan GS	9. Occ. Code 1670	10. Grade/Level 13	11. Step/Rate 04	12. Total Salary 50,830.00	13. Pay Basis PA	15. Pay Plan	17. Occ. Code	18. Grade/Level	19. Step/Rate	20. Total Salary/Award	21. Pay Basis
12A. Basic Pay 50,830.00	12B. Locality Adj.	12C. Adj. Basic Pay 50,830.00	12D. Other Pay	20A. Basic Pay	20B. Locality Adj.	20C. Adj. Basic Pay	20D. Other Pay				

14. Name and Location of Position's Organization U S CUSTOMS SERVICE OFFICE OF ENFORCEMENT NAT'L FIREARMS PROGRAM STAFF WEAPONS SUPPORT BRANCH	22. Name and Location of Position's Organization
--	--

EMPLOYEE DATA

23. Veterans Preference 1 - None 2 - 5-Point	3 - 10-Point/Qualify 4 - 10-Point/Comparable	5 - 10-Point/Other 6 - 10-Point/Comparable/30%	24. Tenure 1 - None 2 - Conditional 3 - Indefinite	25. Agency Use	26. Veterans Preference for RIF YES NO
27. FEGLI 7 - BASIC-STANDARD	28. Annuitant Indicator Y NOT APPLICABLE	29. Pay Rate Determinant U	33. Part-Time Hours Per Biweekly Pay Period		
30. Reurement Plan 1 - GS	31. Service Comp. Date (Leave) 10/02/78	32. Work Schedule F FULL TIME			

POSITION DATA

34. Position Occupied 1 - Competitive Service 2 - Escorted Service	3 - SES General 4 - SES Career Reserved	35. FLSA Category E - Exempt N - Nonexempt	36. Appropriation Code	37. Bargaining Unit Status 3552
38. Duty Station Code 13-1280-215	39. Duty Station (City - County - State or Overseas Location) COLUMBUS MUSCOGEE GA			

40. AGENCY DATA	41.	42.	43.	44.
-----------------	-----	-----	-----	-----

45. Remarks

FORWARDING ADDRESS = 64 BAYVIEW DRIVE
" " " PHENIX CITY, ALABAMA 36869
LUMP-SUM PAYMENT TO BE MADE FOR ANY UNUSED ANNUAL LEAVE.
TRANSFER PENB ENROLLMENT TO OPM.

48. Employing Department or Agency DEPARTMENT OF THE TREASURY	50. Signature/Authentication and Title of Approving Official Mark S. Blank DESIGNATED APPOINTING OFFICIAL
47. Agency Code P 47	49. Approval Date 02/17/93

S-Part 50-318

5 - Utility Copy

Editions Prior to 7/81 Are Not Usable After 6/30/83
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UNITED STATES GOVERNMENT
MemorandumDEPARTMENT OF THE TREASURY
UNITED STATES CUSTOMS SERVICE

DATE:

FILE: CO:TO:S:O SSJ

TO : Commissioner of Customs


FROM : Assistant Commissioner
Commercial Operations

SUBJECT: Changes to CD-3290-001, Processing Narcotics Drug and
Controlled Substance Evidence

The attached changes to CD-3290-001, Processing Narcotic Drug and Controlled Substance Evidence, are necessary in order to clarify some issues identified by the field in the area of testing narcotics prior to destruction and the transporting of controlled substance from the storage facility to the destruction site.

CD-3290-001 was not specific in addressing the question of what was meant by random testing. With the proposed changes, random testing has been better defined and will no longer lead to confusion in the field. The Directive also failed to specifically identify who was responsible for the security and transportation of controlled substances from the storage site to the destruction site. These issues have now been addressed and should lead to a smoother transition when controlled substances are to be destroyed.

RECOMMENDATION: That you sign the changes.


Samuel H. Banks

Attachment

OFFICE: OO:TO:S:S

DISTRIBUTION: See below

POLICIES &
PROCEDURES
MANUAL**CHANGE** No. 01

ISSUE DATE: JANUARY 6, 1993

TO: (ISSUANCE
No. & Title) CD 3290-001, Processing Narc. Drug & Controlled Substance

SUBJECT: Clarification on Testing & Transportation of Narcotics

1. Purpose

To better define the terms "testing" and "sampling" as used in CD 3290-001. To address the issue of transporting seized controlled substances to the destruction site and the transporting of abandoned controlled substances.

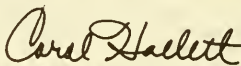
2. Background

Customs Directive 3290-001 was issued to establish policy and assign responsibilities regarding processing of Title 21 contraband substance evidence (from seizure, to laboratory analysis, storage and destruction). The change will clarify what type of testing is required prior to destruction. The change will also identify procedures and the office responsible for the transporting of abandoned narcotics to a secured storage site and of seized narcotics to the destruction site.

3. Removal and Insertion of Pages

Remove: Pages 19 and 20; 23 and 24; 29 and 30

Insert: Page 19, 20 and 20a; 23, 24 and 24a; 29, 30 and 30a



Commissioner of Customs

Attachments**Distribution:**

H-02 AC's, CC, Cong & Public Affairs
R-01 Regional Commissioners
F-01 District/Area Directors
F-10 District FP&F Officers
G-19 All Customs Inspectors
G-22 All Law Enforcement Personnel

Customs Form 4450 (Rev. 11/82)



CUSTOMS ISSUANCE SYSTEM

POLICIES &
PROCEDURES
MANUAL**CUSTOMS
DIRECTIVE**

NUMBER: 3290-001

ISSUE DATE: OCTOBER 9, 1991

SUBJECT: Processing Narcotic Drug and Controlled Substance Evidence

References: Controlled Substance Act (21 U.S.C. 844; 841)(a)(1); the Controlled Substance Import/Export Act (21 U.S.C. 952; 959); the Maritime Drug Law Enforcement Act (46 U.S.C. 1901 et seq.); the Aviation Smuggling Act (19 U.S.C. 1590); the Anti-Drug Abuse Act of 1988 (P.L. 100-690); the January 10, 1990 Agreement on the Establishment of Narcotics Smuggling and Money Laundering Task Forces, and, the Customs/DEA implementation Directive for the Establishment of Narcotics Smuggling and Money Laundering Task Forces (March 14, 1990)

THE CONTENTS OF THIS DIRECTIVE CONSIST OF GUIDELINES AND INSTRUCTIONS RELATING TO SPECIFIC LAW ENFORCEMENT PROCEDURES USED WITHIN THE UNITED STATES CUSTOMS SERVICE. ACCORDINGLY, THIS ISSUANCE QUALIFIES FOR EXEMPTION FROM PUBLIC DISCLOSURE UNDER THE FREEDOM OF INFORMATION ACT, 5 USC 552 (b). ANY PUBLIC INQUIRIES AND REQUESTS CONCERNING THIS DIRECTIVE SHOULD BE REFERRED TO THE APPROPRIATE HEADQUARTERS, REGIONAL, OR DISTRICT COUNSEL.

1. PURPOSE

To establish policy and assign responsibilities regarding the processing of Title 21 contraband controlled substance evidence (from seizure, to laboratory analysis, storage and destruction) which is necessary to ensure (1) a uniform oversight procedure and (2) the proper safeguard, management, and accounting of such evidence.

2. BACKGROUND

Based on the passage of the Anti-Drug Abuse Act of 1988, as amended (Pub.L 100-690) and the agreement by the Drug Enforcement Administration to cross-designate Customs agents with Title 21 authority to conduct drug smuggling investigations, the issuance of up-to-date procedures for Customs control, management, and reporting of seized narcotics and controlled substance evidence is warranted.

The issues and concerns that have been identified include the need for (1) a policy within Customs which addresses the uniform handling of seized narcotics and controlled substance evidence; (2) resolution of the legal requirements involving evidentiary quantities which must be held pending resolution of criminal proceedings, and, (3) uniform requirements for the transportation, analysis, storage and destruction of seized narcotic and controlled substance evidence. Uniform

Customs Form 100 (Rev. 11/81)



CUSTOMS ISSUANCE SYSTEM

DEPARTMENT OF THE TREASURY • UNITED STATES CUSTOMS SERVICE

U.S. GOVERNMENT PRINTING OFFICE: 1991 O-64887

4. RESPONSIBILITIES

- A. Regional Commissioners are responsible for ensuring that the procedures attached to this directive are followed consistently throughout the region.
- B. District Directors are responsible for implementing the procedures attached to this directive.
 - (1) Each district director is responsible for managing and accounting for controlled substance seizures as described in this directive and other applicable guidelines. Special action should be taken to ensure that the status of each controlled substance seizure is updated on a timely basis.
 - (2) The district director shall ensure that responsibility is assigned for tracking controlled substance seizures.
- C. Special Agents-in-Charge must review, at least monthly, open controlled substance seizures under their jurisdiction and advise the respective FP&F officer of any changes in status that would warrant disposition by destruction.

5. EFFECT ON OTHER DOCUMENTS

All previous written and verbal guidelines pertaining to the processing of seized controlled substances are hereby rescinded except as expressly stated herein. In particular, the following Headquarters issuances are superseded:

Bureau circular PER-11-PEP dated August 9, 1955
 Bureau circular PER-11-PEP dated May 15, 1958
 Bureau circular ENF-3-IN, dated May 21, 1959
 Bureau circular ENF-7-00, dated December 4, 1967
 Bureau circular ENF-7-INV, dated January 13, 1969
 Bureau circular ENF-4-CC, dated October 28, 1971
 Bureau circular PER-11-CC, dated March 7, 1974
 Bureau circular PER-11-CC, dated May 20, 1974
 Bureau circular ENF-7-O:I:F:P, dated September 18, 1974
 Bureau circular ENF-7-O:I:PP, dated August 25, 1975
 Bureau circular TEC-1-O:T, dated April 18, 1977
 Manual Supplement 3292-02, dated May 14, 1979
 Manual Supplement 5200-06, dated August 27, 1979
 Manual Supplement 3293-04, dated February 22, 1980

Attachment A
to Directive 3290-001; OCTOBER 9, 1991

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I. DEFINITIONS

The definitions and terms used in this directive are listed below:

Chain of Custody: The witnessed, written record of all individuals who have maintained control over (custody of) the evidence since its acquisition by a Customs officer. The chain of custody begins when an item of evidence is collected, and is maintained until final disposition of the evidence. The chain of custody assures continuous accountability and if it is not properly maintained on a particular item of evidence, that item may be inadmissible in court. Individuals in the chain of custody are responsible for the care, safekeeping, and preservation of the evidence while it is under their control.

Controlled Substance: A scheduled drug, or immediate precursor, as listed by the Attorney General in 21 U.S.C. Subchapter I, Part B. Sections 811 and 812 of Part B provide the authority and criteria for classifying substances and establish five schedules by which all controlled substances are catalogued. However, for the specific listing of substances designated in the five schedules, officers should refer to 28 CFR Part 1308 or call DEA for specific and up-to-date designation. Schedule I lists all controlled substances for which there is no legitimate current medical use for treatment in the United States; a high potential for abuse; and a lack of acceptable safety, even under medical supervision, with regard to physiological and/or psychological dependence. Schedule II is reserved for those controlled substances which also have a high potential for abuse and severe dependency factors, but for which there is a currently accepted medical use for treatment. Schedules III - V list controlled substances with correspondingly less potential for abuse and dependency.

District Director: Principal field officer of the U.S. Customs Service. As used in this directive, the term also embraces the position of Area Director.

Inventory: A survey, by amount and type, of the evidence on hand in the evidence room.

Marijuana: The intoxicating products of the hemp plant (cannabis sativa) or any of the products derived from it, for example, hashish.

Narcotic: Any opiate (whether naturally occurring or synthetic) or cocaine. Examples: Opium, heroin, morphine, codeine, paregoric, dilauded, meperidine, and methadone.

Seizure Number: The individual number assigned on the seized property control record to collective items of property and evidence pertaining to one case or incident which have been received by the seizure custodian for storage and safekeeping. The seizure number serves primarily as the reference number used by seizure room personnel to locate stored items of property.

Seized Property Custodian: The person officially appointed or designated by the district director to assume custody of customs-held seized property stored in the seizure room. Seized property custodians are responsible for the accountability, preservation, safeguarding, and disposition of all property/evidence released to their custody.

Zero Tolerance Seizures: Zero Tolerance pertains to "personal use" quantities, which are defined as that amount of controlled substance which indicates no evidence of intent to distribute, or to facilitate the manufacturing, compounding, processing, delivering of the controlled substance or the importing or exporting of controlled substance in quantities which are not intended for immediate personal use.

II. PROCESSING SEIZED DRUG EVIDENCE

A. GENERAL

(1) Physical evidence may consist of drugs, money, precursor chemicals, equipment, packaging, documents, fingerprints, or any other tangible property used to establish a violation of law. Once acquired, physical evidence must be handled, stored, presented, and eventually disposed of in such a manner as to assure its accountability and integrity.

(2) Customs uses two methods of processing physical evidence: one based upon the need for laboratory analysis (generally intended for drug evidence), and the other based upon a need for secure handling without analysis (non-drug evidence). The methods used to process non-drug evidence are the same methods used to process other non-drug property acquired in connection with Customs enforcement activities and is described in Part 8 of the Seized Property Handbook (HB 5200-09). Further information relating to the specific responsibilities of the Offices of Enforcement and Inspection and Control in the processing of drug and non-drug evidence can be found in Chapter 9 of the Enforcement Handbook-HB 4000-01 (formerly the Special Agents Handbook); and, Chapter 8 of the Inspector's Handbook-HB 3000-03, respectively.

B. LABORATORY ANALYSIS

(3) All seized drug evidence acquired by a Customs officer in the course of an inspection or an investigation (except ODETF

analysis shall also be considered as drug evidence (see special procedures for handling hazardous chemicals described below in paragraphs 76 - 82).

C. COLLECTION AND PROCESSING

Collection Techniques

(9) Field tests on suspected drug evidence may be conducted (see Appendix 6). Such tests are useful for on-the-spot investigative planning, but are not conclusive. Suspected drug evidence should not be disposed of based upon a negative field test. Identification of substances by taste or odor should not be attempted. Adherence to the procedures described in Appendix 5, and the application of good judgment should reduce to a minimum the possibility of arrests based on inconclusive or false reactions to field tests. A summary of the major characteristics of principal drugs, and the logical sequence of tests to use in identifying a suspect substance are contained in Appendix 7.

(10) Field tests are to be documented by the special agent on a Customs Report of Investigation (ROI) in TECS II, noting the fact that a test was performed, its results, and the names of the seizing officer and/or special agent performing the test and the witnessing officers. DEA Form 7 is not to be used to report field tests.

(11) During a search, suspected drug evidence should be photographed, if practical, in its original location prior to removal for processing. Photographs should be processed as documentary evidence (see paragraphs 69 (j)(k) and 79 below).

(12) The following guidelines apply to the division of suspected drug evidence into separate exhibits:

- (a) Evidence acquired at different times or locations (e.g., different containers or different places of concealment in the same shipment) will be separate exhibits.
- (b) Quantities with differing packaging or labeling will be separate exhibits.
- (c) Evidence which appears to be of a different composition (e.g., color, shape of tablets, etc.) will be separate exhibits unless the several types are commingled to the point of making this impractical.
- (d) Several like containers, holding apparently the same substance, found in the same location, at the same time, will constitute a single exhibit.

- (a) The initials of the Customs officer who acquired the exhibit and the special agent (or other law enforcement official) who witnessed the acquisition or handled the exhibit in any manner.
- (b) The exhibit number.
- (c) The seizure number.
- (d) The date of seizure.

These markings, where practical, should be made directly on the exhibit using a permanent marker.

(19) Sealing: Use of Evidence Labels. When using a plastic heat-sealable evidence envelope, use the label permanently affixed to the envelope. When using another means to package the exhibit, use a gummed label containing the information listed below. These labels will be completed in ink as follows:

- (a) Case number. (Enter the seizure number).
- (b) Exhibit. Enter the exhibit number.
- (c) Date of Seizure/Purchase. Enter the month, day, year of acquisition.
- (d) Sealing official. Print the name of the Customs special agent sealing the evidence. Normally, this should be the agent who acquired the exhibit.
- (e) Witnessing official. Print the name of the special agent who witnessed the sealing. Normally, this should be the officer/agent who witnessed the acquisition.

(f-h) For laboratory use only.

(20) Sealing: Use of Evidence Seals. When plastic evidence envelopes are used, gummed labels are required. They may be prepared as affixed as follows:

- (a) The special agent and the witness will initial the name block, enter the date of sealing, and the seizure number.
- (b) The seal will be affixed to the outside of the plastic evidence envelope, parallel to the opening, such that it will be centered over the line of the heat-seal.
- (c) Heat-seal the plastic envelope and inspect the seal to ensure that it is fully sealed.

- (c) Upon completing the action for which the package was opened, the evidence and all parts of the old envelope will be placed in a new evidence envelope or package and resealed (as described in paras. 19-21 above).
- (d) The reason for opening and resealing the evidence, as well as the date and name(s) of the person(s) doing it, will be reported by the case agent on the Customs ROI.
- (e) See paragraph 64 for information about resealing evidence opened during the course of a court presentation.

Determining Gross Quantity

(24) Generally, the gross metric weight of each sealed drug exhibit (substance, container, and envelope) will be determined and reported on the Customs ROI and the CF-6051 as well as in item 14 of DEA Form 7. For exhibits consisting of tablets and capsules, the total count will be reported in item 12; for liquids, the volume will be reported. If the exhibit is in a factory-sealed container, this fact should also be reported.

(25) If the gross weight is under one kilogram, the weight should be determined to the nearest tenth of a gram. If over one kilogram, determine to the nearest gram. District directors will ensure office balances are calibrated at least on an annual basis in accordance with Customs Standards on scale calibration. Calibration reports should be submitted on a CF-6033, Annual Report of Weighing Equipment (Appendix 8). This may be done either by commercial arrangement or by arrangement with Customs field laboratory director serving the district. Principal field officers will also ensure that the appropriate customs officers are properly trained in the use of the balances.

(26) Tablets and Capsules. The number of tablets or capsules may be determined in either of two ways: if a small quantity, by actual count; if a large quantity, by computation based on relative weights (i.e., count and weigh 100 units to determine unit weight. Divide this into the net weight of the entire exhibit to determine the total number of units). If the exhibit consists of legitimately manufactured drugs in factory-sealed containers, and there is no reason to suspect tampering, then the count shown on the label will suffice.

(27) Liquids. The gross quantity will be reported by volume, derived as precisely as possible under prevailing circumstances. Base the estimate on the known or apparent size of the container. If the original container is not sealable against leakage, use a substitute container.

(28) Powders or Loose Solids. The gross quantity need only be determined after sealing the exhibit.

- 1 Seizing officers shall continue to cite 19 U.S.C. 1595a and, where appropriate, as well as other applicable citations as 49 U.S.C. 781 et seq., in addition to the Title 21 substantive violation(s), in the S/A/S reports and their reports to district directors, regional commissioners and U. S. Attorneys.
- 2 It is to be recalled that 19 U.S.C. 1595a applies to all merchandise, conveyances and other items involved in importations contrary to law while 49 U.S.C. 781, et seq., applies only to conveyances involved with "contraband" as defined in those sections. This includes narcotics and marijuana as defined in the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 801 et seq.) but not to other controlled substances.
- 3 Other bases of seizure which may be available for citation purposes include 19 U.S.C. 1590 (aviation smuggling), 19 U.S.C. 1703 (seizure and forfeiture of vessels which are fitted out for smuggling), 18 U.S.C. 981 (money laundering violations), or 19 U.S.C. 1436 (entry requirement violations), as well as others not as frequently used. Application of a given citation will depend on the specific facts of the seizure. Additional assistance may be obtained from regional and district counsels.

(34) Seized drugs will also be documented on a CF-6051, Custody Receipt for Retained or Seized Property; and, if the drug evidence is to be submitted to a DEA laboratory, a DEA Form 7, Report of Drug Property Collected, Purchased, or Seized. Instructions on the completion of the CF-6051 may be found in Parts 8 and 9, and in Appendix A of the Seized Property Handbook (HB 5200-09). Each CF-6051 will represent a unique and complete seizure action, i.e., the total case will be represented on the one CF-6051 identified by one seizure number (regardless of the total number of articles, packets, pills, bricks, bulk, etc. seized). The seizing officer is responsible for weighing (counting) the seizure to determine the gross weight or quantity. The total weight (or number) shall be noted on the CF-6051 in block 20. This is extremely important to the reporting process for Customs narcotics seizures.

(35) The circumstances surrounding the acquisition of drug evidence will be fully reported by the special agent on a Customs ROI. The acquisition itself is documented on forms CF-6051 and DEA Form 7. The DEA Form 7 serves four purposes:

- (a) A written request for drug analysis by a DEA laboratory;

(If requesting a ballistics examination, enter "Ballistics examination requested").

Item 17-18: Enter typed names and signature

(37) No more than three separate exhibits may be placed on a single DEA Form 7 with the following special conditions:

- (a) A series of samples from the same bulk evidence seizure (e.g., Subexhibits 1a through 1g) may be placed on the same DEA Form 7.
- (b) Where an original container is being submitted separately, the drug substance and the container (e.g., Exhibit 1 and Subexhibit 1a) will be considered as two exhibits.
- (c) Only exhibits from the same defendant, or in the same location at the same time, and in the same investigation, may be submitted on the same DEA Form 7.

For evidence delivered personally to a DEA laboratory, the transfer of custody (items 19-24 on the DEA Form 7) will be completed by the special agent and the DEA Laboratory Evidence Technician. For evidence shipped to the DEA laboratory, these items should be left blank, and copy 6 should be kept for temporary placement in the investigative case file. Copies 1 - 5 are to be forwarded to the DEA laboratory.

(38) The DEA laboratory will enter the results of analysis in items 25-39, and return copies 1-4 to the submitting Customs office. Distribution of the remaining copies will be made by the special agent as follows: copies 1 and 2 will be distributed to the appropriate case file, copy 3 to the FP&F officer, and copy 4 to the Customs field laboratory director serving the geographical area. Upon receipt of its copy from the DEA laboratory, the submitting office will purge copy 6 from the case file.

(39) Customs participates in a nationwide Federal Government drug seizure system by obtaining and reporting Federal Drug Identification Numbers (FDIN) to provide accurate seizure statistics. In an effort to avoid the double counting of seizures when multiple agencies are involved, a unique FDIN is assigned to all large drug seizures. Detailed instructions on obtaining and reporting the FDIN are contained in Section V.b of the CF-151 Handbook, HB 4300-03.

- (a) Generally, a FDIN will be required for a drug exhibit reported on a DEA Form 7, including some "Information only" DEA Form 7's, if the weight entered either in item 12, "approx. Gross Quantity Seized," or item 13,

- (d) **How to Report the FDIN.** Report the FDIN in item 10 of the DEA Form 7. If a DEA Form 7 is used to report two or more exhibits and any of the exhibits has a FDIN, refer to the exhibit number and its' associated FDIN (e.g., "Exh. 1, FDIN 91003663; Exh. 3, FDIN 91006745"). A FDIN must be reported on any DEA Form 7 reporting drug evidence as described in (a) above.

E. HANDLING AND DISPOSITION

Documenting Transfer of Custody

(40) The loss of many man-hours resulting from the maintenance of custody of seized controlled substances by more employees than necessary and the increase in the risk of employees being unavailable as witnesses and cases being lost in court for this reason, point to the need for a procedure under which the number of persons having custody of such seizures will be reduced to a minimum. With a view to achieving this objective, the following procedure shall be followed for the maintenance of the chain of custody of seized drug evidence pending the resolution of the criminal phase of the case.

- (a) When a Customs officer, other than a cross-designated special agent, detects a violation which results in an arrest and the seizure of controlled substances requiring chemical analysis, the officer should immediately inform the supervisor, who, in turn, should immediately notify the nearest Office of Enforcement which may require the evidence for temporary use in questioning the arrestee, searching for fingerprints or other purposes.
- (b) With a view to preserving fingerprints, the seizing officer and all others having custody of the drug evidence shall handle the wrapper or other container with utmost care. The container should be initialed and dated by the officer and, together with its contents, placed in an evidence envelope which should be sealed and labeled in accordance with the provisions of paragraphs 17-23 above. When the seizure is a large one, involving a number of containers of considerable size, each container should be labelled for ready reference in court.
- (c) The seizing officer should complete the Custody Receipt for Retained or Seized Property, CF-6051, which should be signed by all those physically handling the seizure. The seizing officer should retain personal custody of the evidence until delivery is made to a cross-designated special agent.
- (d) When the violation is detected by a special agent, the agent shall perform the duties of the seizing officer prescribed above, submit the seized drugs to the DEA laboratory and,

- (j) Where a seizure is made at a port in which a DEA laboratory is located, and the U.S. Attorney, or his designee, desires that the identity and quantity of the evidence be positively established as a prerequisite to criminal action against the person from whom the seizure was made, the special agent may personally deliver the seized controlled substances immediately to the DEA laboratory for preliminary analysis and the taking of weight. Upon the return of the seized drugs, the special agent should deliver the seizure to the seized property custodian (SPC) as required below.
- (k) When U.S. Attorneys decline prosecution of defendants involved in small seizures of controlled substances, it is Headquarters' policy to grant blanket authority to all district directors to deliver such seizures direct to local authorities. In fulfilling this policy, special agents in charge (SAC)/resident agents in charge (RAC) will provide seizing officers with complete information in all cases where U.S. Attorneys have recommended that prosecution of a defendant be turned over to local, state, or military authorities, in accordance with the procedures described in Customs Directive 4400-11, dated October 18, 1989 ("Zero Tolerance").
- 1 Where it is determined that evidence already in custody of a district director should be transferred to another agency for prosecution, this shall be so indicated on a CF-6051, noting specifically to whom the evidence is to be transferred, the date it should be transferred, and the means of transfer (e.g., pick-up, registered mail, etc.).
 - 2 Upon delivery of the seizure to such authorities (documented on CF-6051), the Customs officer effecting the transfer will obtain a receipt from the receiving agency indicating that the delivery constitutes an adoption by them of the Customs seizure and an undertaking to dispose of the seized controlled substances, when the purposes of such authorities have been served under their own laws and regulations.
- (1) Following DEA laboratory analysis, the district director should retain exclusive custody of the seized controlled substances pending resolution of the judicial proceedings. The seals of the DEA laboratory should remain unbroken until the chemist testifies in court during the course of the trial that the threshold amount, or representative sample (in the case of marijuana), is in the exact condition as it was when sealed.

- (m) In the case where controlled substances have been abandoned and the Customs Service has taken custody of this non-evidentiary material, the seizing discipline will be responsible for the transportation of such abandoned controlled substance to a permanent storage facility. At the permanent storage facility, the seizure will be inventoried, weighed and destroyed within thirty days of time of seizure.
- (n) Because of the varying conditions throughout the Customs Service, it is recognized that some difficulties may be encountered at certain ports in following completely the procedures prescribed above. Therefore, minor changes, where necessary to meet local conditions, are acceptable provided that they are cleared with the United States Attorney, where appropriate, and the objective sought will be accomplished.
- (41) Completing the CF-6051. The CF-6051, Custody Receipt for Retained or Seized Property, is prepared for all seizure cases in accordance with the instructions on the reverse side of the form. Each line item of property is counted or weighed, and recorded on the CF-6051 in the same manner as required on the CF-151. Block 21 of the CF-6051 will be completed as follows:
- (a) Date: Enter the actual date of the transfer. When using registered mail, enter date of mailing.
 - (b) By: Enter the name, title, and duty office of the accepting party.
 - (c) Items: Indicate the line item number from block 20 (which describes the exhibit, how it is packaged, and whether sealed).
 - (d) Number of Units: Enter the exhibit designator.
 - (e) Signature: The receiving entity will sign here and enter his or her title.
- (42) Any number of drug exhibits may be placed on the same CF-6051, provided they are all part of the same transfer.
- (43) The CF-6051 may be typed (or, if done legibly on all copies, in ball-point pen) and completed in triplicate. The releasing party will keep the first copy, the receiving party will keep the original, and the second copy will be placed in the investigative case file.

Transfer of Custody to DEA Laboratories

(44) Custody of drug evidence shall be transferred to DEA laboratory as expeditiously as possible. Where this cannot be accomplished immediately after seizure and processing, the following guidelines shall be followed:

- (a) Drug evidence must be fully processed (identified, marked, and sealed) prior to temporary storage.

(CHG 1/JAN '93)

- (b) All principal field offices will have a secure short-term storage facility, accessible for the deposit of seized drug evidence during off-duty hours. The use of these facilities, to store evidence pending transfer to a DEA laboratory, will be governed by the standards and specifications described in part 4 of this directive. Nonevidentiary property (Customs firearms, office supplies, etc.) will not be stored in the same storage facility as evidence.
- (c) Where a Customs facility is not available, the evidence facility of another law enforcement agency may be used, received via a CF-6051.
- (d) Where neither of the facilities in b or c above are available, evidence may be stored under secure lock and key in some other facility, provided that access is limited solely to the responsible Customs officials. The use of unoccupied vehicles, hotel rooms, or locked desks for storage is prohibited.

Delivery/Transport of Drug Evidence

(45) Seized drug evidence may be delivered to a DEA laboratory by any of three methods: personally delivered; registered mail (return receipt); or commercial carrier. The following factors will be considered in selecting a method for a particular situation:

- (a) proximity of the laboratory
- (b) attractiveness of the evidence to theft and the consequences to Customs from such a theft
- (c) weight and bulk of the evidence
- (d) urgency for analytical results
- (e) availability of personnel

(46) **Personal Delivery.** Where, in the judgment of a principal field officer, the amount of suspected drug evidence is such as to require secure transport, it will be personally delivered by a special agent. Where the amount is such as to pose a high risk, then additional special agents should be assigned as appropriate. The DEA Form 7 will be hand carried with the evidence and receipted for in person.

(47) Where a seizure is made at a port in which a DEA laboratory is located, and the U.S. Attorney, or designee, desires that the identity and quantity of the property be positively established as a prerequisite to criminal action against the person from whom the seizure was made, the special agent may personally deliver the seized drug evidence immediately to the DEA

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- (d) Where neither of the facilities in b or c above are available, evidence may be stored under secure lock and key in some other facility, provided that access is limited solely to the responsible Customs officials. The use of unoccupied vehicles, hotel rooms, or locked desks for storage is prohibited.

Delivery/Transport of Drug Evidence

(45) Seized drug evidence may be delivered to a DEA laboratory by any of three methods: personally delivered; registered mail (return receipt); or commercial carrier. The following factors will be considered in selecting a method for a particular situation:

- (a) proximity of the laboratory
- (b) attractiveness of the evidence to theft and the consequences to Customs from such a theft
- (c) weight and bulk of the evidence
- (d) urgency for analytical results
- (e) availability of personnel

(46) **Personal Delivery.** Where, in the judgment of a principal field officer, the amount of suspected drug evidence is such as to require secure transport, it will be personally delivered by a special agent. Where the amount is such as to pose a high risk, then additional special agents should be assigned as appropriate. The DEA Form 7 will be hand carried with the evidence and receipted for in person.

(47) Where a seizure is made at a port in which a DEA laboratory is located, and the U.S. Attorney, or designee, desires that the identity and quantity of the property be positively established as a prerequisite to criminal action against the person from whom the seizure was made, the special agent may personally deliver the seized drug evidence immediately to the DEA

Production in Court

(55) It is the special agent's responsibility to ensure that all evidence needed for trial is available at the appropriate time, but not so far in advance as to require storage outside the district seizure room any longer than necessary.

(56) Further, the special agent will coordinate with the prosecutor regarding the DEA chemist's testimony. If possible, an attempt should be made by the prosecutor to gain a defense stipulation as to the analysis of the drug evidence.

(57) Where a special agent takes custody of drug evidence from the DEA laboratory or seized property custodian (SPC), only sealed evidence will be accepted.

(58) When hand carrying the seized drug evidence from the district seizure room to the court is not feasible, the SPC will ship it to the appropriate Office of Enforcement field office pursuant to a written request by the SAC or his designee (see paragraphs 45-54).

(59) When it is determined that seized drug evidence from one Customs case is needed as evidence in another case, the SAC/RAC will notify the SPC in custody of that evidence by memorandum. This memorandum will specify the exact evidence and the name, title, and complete address of the person to receive that evidence. The seized drug evidence will remain under the original seizure number and will be returned to the original SPC promptly upon completion of the judicial proceeding.

(60) Should the judicial proceeding for which the evidence was required be postponed, follow the policy guidelines for temporary storage in Part 4 of this Directive.

(61) The special agent will transfer custody of evidence to the court via a CF-6051. If the clerk of the court takes custody of the evidence but refuses to sign a receipt, the special agent will have another agent or another responsible person witness the CF-6051 to the effect that the evidence was transferred to the court. The special agent will also request that the transfer of evidence to the court be entered in the court record. If the court will not formally accept custody of the evidence introduced in a proceeding, the special agent will be responsible for its security.

(62) Should the prosecutor specifically request custody of the seized drug evidence, or if the prosecutor's facility affords better overnight security than otherwise available, the transfer will be documented on a CF-6051.

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(63) Procedures vary among court jurisdictions as to the return of drug evidence upon completion of judicial proceedings. To assure proper disposal, its return to the district SPS/SPC will be the responsibility of the special agent.

(64) The special agent is responsible for obtaining drug evidence from the court, receipted by a CF-6051, then another special agent or another responsible person will witness the transfer of custody. Where the seal is broken, the special agent will inventory its contents in the presence of the court official to assure all subdivisions are present and reseal it. Upon returning to the field office, the special agent will promptly verify its gross weight in the presence of a witnessing agent.

(65) The special agent will promptly return the seized drug evidence to the seizure custodian directly. It will not be left in the custody of the special agent any longer than necessary to accomplish its return to the SPS/SPC.

Disposition

(66) The following paragraphs apply to all seized drug evidence and non evidence (except bulk marijuana and bulk chemicals) regardless of whether actually used in court. Disposition procedures for bulk marijuana and chemical evidence or non-evidence are described in paras. 72-82. Additionally, general instructions on the destruction of seizures by Customs Officers are issued by district directors in accordance with part 12 of the Seized Property Handbook. The instructions are carried out by the destruction committee appointed by the district directors for each location where seizures may be destroyed.

- (a) The District Director and the Special Agent in Charge will jointly insure adequate protection (security) for the transportation of narcotics to and from the storage facility and the destruction site. Such protection (security) will be provided by utilizing USCS personnel.
- (b) The Seized Property Specialist/Custodian will assist in the coordination, along with the destruction committee, in the transportation of controlled substances to the destruction site.

(67) From the standpoint of security, it is important that seized drug evidence be disposed of as soon as it is no longer of evidentiary value. This determination may be made administratively in the case of surrendered or abandoned drugs, or by the prosecutor concluding that the case is not prosecutable, or that all judicial proceedings are concluded and the time for filing an

appeal has lapsed. District directors shall cause the judicial and administrative status of seized drug evidence to be reviewed monthly so the ultimate disposition of stored drug evidence can be promptly made. Stored drug evidence shall be disposed of within 30 days after disposition has been determined.

(68) If an appeal has been filed, the special agent will check with the prosecutor at least every 30 days to determine when the appeal has been decided. The fact that this inquiry was made, together with the prosecutor's response, will be documented on a Customs Report of Investigation (CF-23).

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(69) Intermediate disposal procedures. The following intermediate disposal methods are intended to prevent the warehousing of large quantities of Schedule I and II drug evidence which is unnecessary for due process in criminal cases and to ensure the retention of an amount sufficient for prosecution purposes, in accordance with the provisions of 28 CFR 50.21. The objective of these procedures is to reduce the size of the exhibits being held for trial to the minimum necessary to preserve their value as evidence.

- (a) When drug evidence is seized in quantities greater than the "threshold amount," which is defined below, or, in the case of marijuana, the representative sample, also defined below, the special agent in charge (SAC) will immediately notify the appropriate U.S. Attorney, or the responsible state/local prosecutor (hereinafter referred to as "equivalent prosecutor"), that the amount of seized drugs exceeding the threshold amount and its packaging will be destroyed after 60 days from the date notice is provided of the seizure, unless Customs is requested in writing by the authority receiving the notice not to destroy the excess contraband drug.
- (b) Notification to the U.S. Attorney or equivalent prosecutor will be in writing and forwarded no later than five days subsequent to the seizure. A copy of this notification will be furnished to the district FP&F officer. A model notification letter will be found at Appendix 9. At a minimum, this notification should include the 60-day deadline date, a description of the drug(s) and amount involved, the amount of drugs to be retained, the special agent's name, the seizure number and exhibit number(s), the prosecutor's name (if known), the U.S. Attorney's office or equivalent prosecutor's criminal matter number (if known), the defendant or subject names known to Customs, and instructions for the U.S. Attorney (or equivalent) to follow if requesting an exception.
- (c) When notified by Customs of an intent to destroy excess contraband drugs, the U.S. Attorney, or equivalent prosecutor, may agree to the destruction of the contraband drug evidence in excess of the threshold amount, or for marijuana in excess of the representative sample, prior to the normal 60-day period. Under 28 CFR 50.21, the U.S. Attorney or equivalent prosecutor may delegate to an assistant the authority to enter into such agreement.
- (d) If the U.S. Attorney or equivalent prosecutor agrees to the destruction in excess of the threshold amount, the special agent will so advise the FP&F officer in writing. The FP&F officer will initiate the completion of an Order to Destroy and Record of Destruction of Forfeited, Abandoned, or

remainder of the exhibit after sampling may be destroyed provided the 60-day period noted in the original notification from the SAC to the prosecutor has expired. At the direction of the FP&F officer, a CF-4613 authorizing destruction of the bulk portion will be prepared by the SPC. Note: For each bulk drug evidence exhibit, the amount of drugs to be destroyed will be indicated in the "Quantity and Description" column of the CF-4613 (e.g., "Destroy amount in excess of the threshold amount"). Additionally, the exact amounts of seized drugs to be destroyed and retained will be noted in the "Method of Destroying" part of the CF-4613].

- (i) If samples for the defense are requested pursuant to a court order, the sample will be drawn and sealed as directed by the court order and transferred or shipped by the SPC at the direction of the FP&F officer. If the defense chooses to sample the evidence, this should be pursuant to a court order. The court should be petitioned to assure that the analysis for the defense is conducted by a competent analytical laboratory, registered with DEA.
- 1 The sample will be drawn as directed by the court order. The sample will be limited to the smallest size and number mutually agreeable to the defense and the government. In arriving at the size and number of samples, a competent chemist will be consulted. The defense counsel may witness the sampling.
 - 2 The competent chemist will seal the samples and provide them as directed by the court order. The CF-6051 will be used to document their transfer. If the samples are shipped to the analytical laboratory rather than personally delivered, they will be sent by registered mail (return receipt).
 - 3 The complete procedures used will be reported (via memorandum) to the special agent for inclusion in the investigative case file.
- (j) When an amount greater than the appropriate threshold amount is seized, the entire seizure will be photographed by the special agent and, if requested by the prosecutor, videotaped as originally packaged or otherwise appropriately displayed so as to create evidentiary exhibits for use in judicial proceedings. The entire seizure will be submitted to the DEA laboratory for analysis. The DEA laboratory will isolate and photograph the threshold amount. Upon return from the DEA laboratory, the entire seizure will be submitted to the SPC.
- (k) When less than the appropriate threshold amount of contraband drugs has been seized, the evidence may be

- 3 Ten kilograms of a mixture or substance described in 2 above which contains cocaine base.
 - 4 PCP: Two hundred grams of phencyclidine (PCP) or two kilograms of a mixture or substance containing a detectable amount of phencyclidine (PCP);
 - 5 LSD: Twenty grams of a mixture or substance containing a detectable amount of Lysergic Acid Diethylamide;
 - 6 Fentanyl: Eight hundred grams of a mixture or substance containing a detectable amount of fentanyl or 200 grams of a mixture or substance containing a detectable amount of any analogue of fentanyl;
 - 7 Hashish: Twenty kilograms of hashish or two kilograms of hashish oil;
 - 8 Marijuana: There is no threshold amount defined for marijuana. Instead, for purposes of this procedure, a representative sample as defined in para. 72 will be retained. This representative sample will be a one kilogram exemplar and ten (10) five gram aggregate samples. For further clarification see paragraphs 72-75 below.
 - 9 Other controlled substances: Two kilograms or 2000 dosage units (i.e. tablets, capsules) of a mixture or substance containing detectable amounts of any Schedule I or II controlled substance in the Controlled Substances Act or Controlled Substances Import/Export Act for which no specific threshold amount has been specified in subparagraphs 1 - 8 above.
 - 10 In the event of any change to Section 401 (b) (1) of the Controlled Substances Act, as amended, (21 U.S.C. 841)(b)(1), the threshold amount of any substance therein listed, except marijuana, shall be twice the minimum amount required for the most severe mandatory minimum sentence.
- (m) The retained portions of the contraband drugs will be maintained until the evidence is no longer required for legal proceedings, at which time it may be destroyed, first having obtained consent of the U.S. Attorney, the Assistant U.S. Attorney, or the equivalent prosecutor. Within 10 days of the completion of all legal proceedings, the special agent will advise the appropriate FP&F officer by memorandum that the U.S. Attorney or equivalent prosecutor has approved the destruction of the retained portions. The method of destruction may include burning; or mixing with water to form a liquid solution which can be flushed down

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the drain; or any other manner which would preclude the reutilization or recovery of the seized drugs or the utilization of its residue for illicit purposes. All methods of destruction shall be in accordance with applicable Federal, State, and Local pollution standards.

DEFINITION

RANDOM SAMPLING:

The random sampling from one or more containers or packages of "threshold" narcotics out of a current inventory of single or multiple seizures scheduled for destruction.

PURPOSE FOR RANDOM SAMPLING:

The purpose of random sampling is to maintain overall seizure integrity. Whenever the tampering of evidence packages is suspected, the number of samples taken should be appropriately increased.

RANDOM TESTING:

District/Area Directors shall ensure that all random samples are "field tested" prior to destruction. The purpose of the "field test" is to identify the type of narcotic substance; and is not to be a determination that the contents is the identical narcotic seized or a determination of the percentage of purity.

At the discretion of the District/Area Director, or as circumstances may dictate, the District/Area Director may request the Customs Laboratory to randomly test and analyze narcotic seizures prior to destruction. When utilizing the Customs Laboratory, only a representative sample of the seizure need be sent to the laboratory; or presented to a Mobile Unit when available. ("A copy of the original laboratory report on the seizure must accompany any seizure sample sent to a Customs Laboratory for analysis. A Customs laboratory will not analyze a seizure sample without a copy of the original analysis report".)

NOTE:

As stated above, the purpose of random testing is to maintain overall seizure integrity. With this in mind, any package or container which is found to be opened, regardless of whether the contents of the package/container remains the same, will be immediately lab tested. This holds true even if the particular seizure is not being prepared for destruction.

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- 1 Residue: Samples of residue or small seizures of 2 oz. or less, when no longer needed for prosecution purposes, shall be forwarded to the district destruction committee to be destroyed (after field test by the Committee to ensure that the drugs are of the type of the drug seized).
 - 2 Threshold amount: Except for marijuana, samples of seizures in excess of 2 oz. shall be inventoried, weighed, sampled, and tested to assure that the drugs to be destroyed are, in fact, of the type of which had been seized.
 - 3 Representative sample: Marijuana seizures, when no longer needed for prosecution, shall be forwarded to the destruction committee to be destroyed. They shall be inventoried and weighed, but need not be tested, prior to destruction.
 - 4 Excess bulk for pretrial destruction: All excess bulk drug seizures shall be forwarded to the destruction committee for destruction no later than 60 days after the date of seizure, unless otherwise instructed by the U.S. Attorney, in writing.
- (n) On a monthly basis, the FP&F officer shall forward a list to each SAC enumerating all exhibits in the district director's custody which exceed the threshold amount or representative sample amount described in subparagraph (1) above.
- (o) Seized controlled substances may sometimes be used in subsequent official activities (only as a detector dog training aid) rather than being destroyed. In such instances, and only after coordination with the appropriate Headquarters and Regional levels, documents directing the disposal should read: "to destroy or use for other law enforcement purposes".
- (p) Residue from detector dog training aids and damaged dog training aids will be destroyed in accordance with the procedures set forth in Customs Directive 3290-05, dated July 10, 1986, on the Canine Enforcement Program.
- (q) The special agent will notify the appropriate U.S. Attorney, or equivalent prosecutor to obtain consent to destroy the

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retained amount or representative sample whenever the related suspect(s) has been a fugitive from justice for a period of five years. An exemplar sufficient for testing will be retained consistent with this section.

(70) CF-4613, Order to Destroy and Record of Destruction of Forfeited, Abandoned, or Unclaimed Merchandise (Appendix 10). Drug exhibits held by the district director will be retained and held in an open status pending receipt of disposition instructions on a CF-4613..

- (a) Within 10 days of a determination that a drug exhibit no longer has evidentiary value, the special agent will so advise the FP&F officer.
- (b) When submitting such advice in accordance with the pretrial bulk drug evidence procedures described in paragraph 69 above, the special agent, as appropriate for each exhibit, should indicate the amount of drug to be destroyed (e.g., "Destroy the amount in excess of the threshold amount"). The FP&F officer will ensure that the exact amounts to be destroyed and retained are noted in the "Method of Destroying" section of the CF-4613 and, once approved by the district director, will transmit the destruction order to the seized property custodian.
- (c) More than one drug exhibit within the same case may be submitted on a single CF-4613. Exceptions to this are:
 - 1 The exhibits are being held by different Customs districts;
 - 2 The means of disposition differs among the exhibits [(i.e., disposal vs. transfer)].
- (d) Where the court directs a means of disposition other than return to Customs, this will be explained in the special agent's notification to the FP&F officer and indicated in the "Method of Destroying" block of the CF-4613.
- (e) CF-4613 should be completed in quadruplicate. The original and two copies should be submitted to the destruction committee in accordance with Part 12 of the Seized Property Handbook. The fourth copy should be kept as an interim record in the FP&F seizure case file.
- (f) Disposal of the evidence shall be administered and witnessed by the destruction committee competent within the seizing district. However, where adequate destruction facilities are unavailable within the seizing district, it will be necessary for the SPC, or designee, to accompany the evidence to a destruction site located within another

Office of the Regional Director, Internal Affairs, and the appropriate enforcement field office SAC.

- 2 Annual Seized Drug Accountability. The seized drug accountability inspection will include a drug inventory as described in paragraph 1; but, additionally, the inventory lists will be reconciled against the case files to ensure that all seized drugs have been accounted for, and their location is accurately reflected by the seizure case file.

- a The drug accountability inspection should account for all seized drugs on open cases for which the FP&F officer is responsible. To ease reporting to the regional FP&F/seizure coordinator, the results of the seized drug accountability inspections may be recorded on inventory sheets. For each line item, the following entries should be made:

Seizure number
Exhibit number
Location of evidence
Remarks

- b A copy of the reconciled inventory lists should be transmitted to each regional FP&F/seizure coordinator with a copy of the cover memorandum being sent to the Headquarters Seizures & Penalties Division. The inventory lists will identify all seized drugs presently stored by the district and the drugs which have been sent to court.
- c As in the case of evidence inventories, attempt should be made to reconcile all discrepancies at the local level. Should this not be possible, the regional FP&F/seizure coordinator and the Regional Director, Internal Affairs must be notified.
- d If reconciliation is not possible for a discrepancy in which documentation indicates that seized drug has been turned over to the court and cannot be located or has been disposed of by the court, the SAC will notify the appropriate FP&F officer that the seizure case file should be closed and the seized drugs be deleted from the district's seizure inventory.
- e At the end of the each accountability inspection, submit a report to the Director, Seizures &

set of prints/videocassette will be placed in non-drug evidence. Instant-developing color cameras should be used as back-up only.

- 1 These photographs/videos must be self-documenting. A sign will be prepared containing the following: file number, seizing agent's name, exhibit number, amount of seizure, date, time and location of the seizure. The sign will be positioned so as to appear in all the photographs. Also, position an object by which to measure the physical size of the seizure (a yard stick or even a person).
 - 2 An evidence sticker bearing the name of the agent taking the photograph or video will be affixed to the reverse side of each picture or to each videotape.
- (c) Unload, assemble, or stack the evidence in such a manner as to make a clear visual display of the sampling technique. If the evidence is in closed containers, open several to display the contents.
- (d) Prepare a representative sample as follows:
- 1 Extract a sample from one location consisting of about one kilogram of substance. Place a clearly visible marker bearing the letter "a" at this location.
 - 2 Proceed to extract from 10 dispersed locations additional samples of about five grams each. Consecutively mark each of these locations "b" through "k".
 - 3 Each of these samples will be submitted as subexhibits to the total exhibit (e.g., Subexhibits - 1a, 1b, etc.). Together, they constitute the representative sample described in paragraph 69 (1).
- (e) The entire display, containing all the marked sampling locations, will again be photographed and/or videotaped as in subparagraph b above.
- (f) The gross and net weights of the total exhibit will be determined. Because of mandatory minimum sentencing laws, all weights should be determined in the most precise manner possible. Only properly calibrated scales (e.g. truck scales) should be used. Amounts up to those sufficient for clearly establishing the highest possible penalty must be determined by actual weighing, not by computation based on partial weighing. If necessary, weighing procedures may be coordinated with the servicing DEA laboratory. All weights,

- (a) The destruction will be carried out by the destruction committee.
- (b) The bulk marijuana evidence will be destroyed, subsequent to the effective date of the authorization, by burning in a suitable incinerator. (NOTE: Bulk marijuana may also be used in subsequent official activities (e.g., as detector dog training aids) rather than be destroyed forthwith. In such instances, documents directing the disposal should read: "to destroy or use for other law enforcement purposes".
- (c) On a monthly basis, the FP&F officer shall forward a list to each SAC enumerating all exhibits in the district director's custody which exceed the representative sample amount described in paragraph 69 (1).

Bulk Chemicals

(76) Processing Bulk Chemicals. Chemicals of a hazardous nature will be sampled for analysis and evidentiary purposes; however, if -- in the opinion of the special agent -- the sampling and retention of some hazardous material may pose imminent or future danger, the substances will not be sampled. The remaining quantities will be given to a competent disposal company for proper packing and preparation for transport. All liquids of a hazardous nature suspected of containing controlled substances will be neutralized with vermiculite, diatomaceous earth, or other materials, as directed by a competent chemist prior to packing. All Customs Service employees shall comply with the requirements of the Federal Hazard Communication Standard, 29 CFR 1910.1200 (see appendix 5).

(77) The special agent will mark and seal all lab packs for security and safety purposes. All materials will be marked by the special agent or disposal company as hazardous or non-hazardous.

(78) Custody of all hazardous materials and chemicals will be given to the disposal company for transport and destruction or storage. The disposal or destruction of hazardous waste will be done immediately.

(79) In no instance will Customs personnel take possession of chemical waste or material determined to be hazardous for the purpose of transport or storage, other than the sample amount taken for analysis and evidentiary purpose.

(80) Non-hazardous chemicals will be considered bulk evidence and will be disposed of in accordance with paragraph 69. The special agent must advise the FP&F officer of the status of the materials collected by the waste disposal company. The FP&F

individual associated with the retention of seizures prior to their destruction.

(87) This destruction is of a type which, if the owner of a container or parcel containing controlled substances were available, would normally be recorded on a CF-4607 (Notice of Abandonment and Assent to Forfeiture of Prohibited or Seized Merchandise and Certificate of Destruction), which allows for destruction by two Customs officers. Therefore, even though the CF-4613 has space for two witnesses, only one will be required for these small quantities, subject to the approval of the Regional Commissioner. In one man ports, where a second Customs officer is not available to act as a witness, but it is advantageous to Customs to effect on-site destruction, the witness should be a Federal officer or other law enforcement official whose identity, organization, and address shall be listed on the CF-4613.

(88) The importance of strict adherence to mandated destruction procedures cannot be overemphasized. It is essential that items be properly listed on the CF-4613 and that all signatures, dates and the place of destruction be clearly recorded.

Surrendered or Abandoned Illicit Drugs

(89) The following procedures will be used to dispose of controlled substances acquired through referral or surrendered by a cooperating citizen, or by abandonment, where there is no identifiable defendant involved.

- a) The controlled substances will be field tested, processed, sealed, and submitted to the district destruction committee by cover of a CF-6051. A CF-4613 will be used by the committee to record the destruction of such substances.
- b) In addition to the CF-6051, the officer acquiring the illicit drugs will prepare a CF-4621 Memorandum of Information Received setting forth the circumstances of acquisition, the amount acquired, the results of the field test, and the reasons for not investigating the matter.

III. STORAGE

To minimize the liability of the U.S. Customs Service for the storage of seized drug evidence, and to assure adequate space for storage demand, no seized drug evidence shall be placed or left in Customs storage except when required by law, regulation, current servicewide instruction, or court order. Likewise, no drugs shall be placed in permanent Customs storage on behalf of another law enforcement agency. Drugs which are seized for

officer to replace forgotten combinations or mutilated or inoperable keys. Lost keys shall be considered a compromise of the corresponding lock. Locks and combinations shall be changed whenever an accountable officer is discharged, disciplined, transferred to another position, or leaves the Customs Service, or when a lock has been compromised. However, in any case, locks and combinations shall be changed not less than once annually at an irregular date.

Entrance to a building, or portion thereof, housing a temporary storage area shall be limited to persons having a need to be there. District directors, Customs field laboratory directors, special agents in charge, and resident agents in charge shall prepare an identification system to assure that the accountable officer knows who has a need to be in the building, or portion thereof, housing the temporary storage area.

When Customs officers cannot continuously guard or supervise a temporary storage area, principal field officers are authorized to conclude agreements with other U.S. government or state/local government agencies to provide supervision or monitoring of seized drug evidence held in temporary storage, as necessary.. When this cannot be done by another U.S. government agency, principal field officers may request the National Logistics Center to contract with a privately-operated security firm to provide this protection in accordance with the standards and specifications described in Appendix 12. Supervision by non-Customs sources can be provided by guards, intrusion detection systems, or a combination of both. Response to a privately-operated intrusion detection alarm may be accomplished by Customs officers, private security officers, or local police officers, but the contract for the security service shall specify the responsibilities for response to such an alarm.

Permanent Storage

Permanent storage facilities for seized drug evidence shall be authorized at central locations in each Customs region. However, there shall be no more than one such facility in a given district without the joint concurrence of the Assistant Commissioners for Commercial Operations and Enforcement. Drug evidence seized in one district shall be transported to another district (whether or not in the same Customs region) for permanent storage, under conditions and arrangements approved by the Regional Commissioner having jurisdiction, whenever it is cost effective to do so. Permanent storage facilities shall be owned and controlled by the U.S. Customs Service or another U.S. Government agency, except in unusual circumstances. Whenever possible, they should be located in close proximity to a duty station of armed U.S. Customs officers who are trained to respond to any attempted theft or illicit entry.

director determines that there are not enough activities to require a full time custodial officer. In such cases, procedures shall be established to assure that the custodial officer is promptly available to open the facility and perform other duties as required by these standards and his job description. An intrusion detection alarm (described in Appendix D, Customs Physical Security Handbook 1400-02) used during hours when the facility is not subject to continuous supervision by a custodial officer shall be connected to a central control station with continuous monitoring by appropriately authorized and qualified personnel. The custodial officer shall see that the system is properly engaged during non-duty hours. Such a system shall be monitored by personnel of Customs, another U.S. government agency, a state or local law enforcement or private firms under agreements entered into by principal field officers or contracts approved by authorized Customs contracting officers in accordance with the standards and specifications described in Appendix 12. The assigned control center officers shall notify appropriate Customs officers and/or other authorized persons of any alarms signifying attempted illegal entry into the facility. Responsibilities for response to an alarm shall be set forth in writing in the agreement or contract. The alarm shall have full line supervision and regular maintenance to assure continuous operation.

IV. SECURITY AND CONTROL

In accordance with section 162.64 of the Customs Regulations (19 C.F.R. 162.64), the seizing district director, and no other customs entity, maintains control of seized controlled substance evidence stored by Customs while in its custody. Seized property custodians accept instructions regarding the storage, maintenance, and disposition of such evidence only from the district director of the seizing district.

District directors are responsible for ensuring that adequate security is maintained at all district facilities where seized drug evidence is stored in conformity with Part 7 of the Seized Property Handbook (HB 5200-09). Customs field laboratory directors are responsible for applying the physical security standards as well as the operational security procedures for customs laboratories as they relate to the storage of seized drug evidence in conformity with Manual Supplements 3293-02 and 3923-03 dated April 5, 1979. In accordance with Policy Statement 5200-03, dated August 17, 1978, Customs officers shall apply the General Standards and Specifications set forth in Treasury Decision 72-56, dated February 4, 1972, to the physical and procedural control of seized controlled substances held in Customs storage facilities.

Appendix 4

DEA FIELD LABORATORIES

<u>Laboratory location</u>	<u>States</u>
New York, New York	
Laboratory Chief Northeast Laboratory Drug Enforcement Administration 555 West 57th Street Suite 1886 New York, N.Y. 10019 Telephone: 212-399-5137	Maine, New Hampshire, Vermont, Rhode Island, New York, Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, Canadian provinces from Ontario eastward, and Bermuda
Washington, D.C.	
Laboratory Chief Mid-Atlantic Laboratory Drug Enforcement Administration 460 New York Avenue, N.W. Washington, D.C. 20532 Telephone: 202-275-6478	Maryland, West Virginia, Virginia, District of Columbia
Miami, Florida	
Laboratory Chief Southeast Laboratory Drug Enforcement Administration 5205 NW. 84th Avenue Miami, FL 33166 Telephone: 305-591-4830	North Carolina, South Carolina Georgia, Florida, Puerto Rico, Tennessee, Martinique and islands north to the Bahamas and west to Florida
Chicago, Illinois	
Laboratory Chief North Central Laboratory Drug Enforcement Administration 610 South Canal Street Suite 500 Chicago, Ill. 60607 Telephone: 312-353-3640	North Dakota, South Dakota, Nebraska, Kansas, Minnesota, Iowa, Missouri, Wisconsin, Michigan, Ohio, Illinois, Indiana, Kentucky

FEDERAL HAZARD COMMUNICATION PROGRAM

All Customs Service employees shall comply with the requirements of the Federal Hazard Communication Standard, 29 CFR 1910.1200, sometimes referred to as the "Employee Right To Know Law", or the "Worker's Right To Know Law". This standard requires that employees be apprised of the hazardous properties of chemicals they work with, and the measures that must be taken to protect themselves from these hazards. This includes narcotics such as cocaine, heroin, and marijuana seized by Customs employees. This transmittal of information is accomplished by safety notices, material safety data sheets (MSDS), container labeling, and employee training.

Contraband suspected of being a narcotic should not be tested or otherwise handled until a MSDS for the suspected narcotic is consulted. All precautions prescribed in the MSDS for the suspect narcotic should be strictly followed. The MSDS is a document which describes the physical and chemical properties of chemicals, their physical and health hazards, and precautions for safe handling and use. MSDS's must be readily available to employees during each work shift when these hazardous chemicals are in their work area.

Supervisors shall ensure that their employees who work with or are potentially exposed to hazardous chemicals are trained on the Hazard Communication Standard and the safe handling of those hazardous chemicals. Hazardous chemical training shall include the following provisions, at a minimum:

- (a) a summary of the standard;
- (b) hazardous chemical properties including visual appearance, odor, and methods that can be used to detect the presence or release of hazardous chemical;
- (c) physical and health hazards associated with potential exposure to hazardous chemicals;
- (d) procedures to protect against hazards, e.g., personal protective equipment, work practices, and emergency procedures;
- (e) hazardous chemical spill and leak procedures;
- (f) where MSDS's are located, how to understand their content, and how employees may obtain and use appropriate hazard information; and

A. FIELD TEST PROCEDURES

- (a) Occasionally a field test of a suspected narcotic substance will produce a positive reaction which subsequent laboratory analysis indicates was a false reaction. Certain innocuous substances will produce a false positive reaction. In addition, field tests are sometimes inconclusive due to the size of the sample, its physical state, or the environment in which it is tested, or the presence of masking agents or contaminants in the suspected material.
- (b) Customs officers who use a field test for marijuana, narcotics and dangerous drugs are reminded that the tests are designed to provide on-the-spot, tentative identification of samples seized or purchased in the course of an investigation. The results obtained cannot be considered conclusive; they must be confirmed by laboratory test before the identity of the sample can be considered, as finally established.
- (c) Common sense preliminary observation is the first step in detection. The evaluation of the overall appearance of suspected material depends upon the experience, training, and intuition of the Customs officer. In the selection of a field test to apply to suspect material, color, odor, texture, and general characteristics of the sample, in comparison with those of known prohibited substances, are all guides as to whether the sample is likely to be, or to bear, a narcotic. The judgement of these characteristics is assumed to be part of an officer's training and experience. However, it is not always possible to actually see samples of the many varieties of controlled substances and observe difference in form and appearance. It is important that if the reasonableness of a material's being suspect is in doubt, a second officer should be consulted or a phone call made to obtain technical advice. A summary of the major characteristics of principal drugs, and the logical sequence of tests to use in identifying a suspect substance are contained in Appendix 7 to this directive.
- (d) Customs officers are reminded that no action shall be taken with respect to small quantities of medicine which meet the conditions outlined in Customs instructions or to reasonable quantities of narcotics carried by a doctor.

- (h) Once a material has been tentatively identified as a narcotic substance it is essential that it be sent to the DEA laboratory for positive identification.

B. FIELD TEST PRECAUTIONS

Several problems may be encountered in the use of field tests for narcotic identification. These difficulties are: (a) recurring accidents due to the puncturing of hands by glass ampules in test kits; and, (b) new smuggling techniques which make field tests difficult or impossible to apply.

Safety: Extreme caution must be used in handling of plastic and glass ampules which are broken in the course of testing. Care must be exercised by all personnel using or demonstrating any of the field test kits. Both ODV and Becton-Dickinson kits consist of plastic containers holding one or two thin glass ampules (in the case of Becton-Dickinson three ampules). It is strongly urged that the following precautions be taken when either type is being used.

Action on safety:

- Protect the hands from glass and/or leaking acids by wrapping a paper towel, handkerchief or other shielding wrap around the plastic container before breaking any ampule.
- Make sure the ampule is broken at the middle of the glass wall, as far from each curved end as possible.
- Make one firm squeeze; do NOT continue to break the glass into tiny shreds
- If more than one ampule is to be broken, make sure that glass shreds from previous ampules are shaken away from the area where the new ampule is to be squeezed.
- Mix the reagents and sample thoroughly but do not shake the test unit up and down. The proper mixing technique is to hold the test unit vertical and flick the bottom of the tube gently with a finger of the other hand.
- If any solution from puncture plastic containers should leak onto skin or clothing, wash it off immediately and thoroughly.
- Dispose of used test materials properly.

3. If a narcotic is present, the color may be visible only on the fabric, rather than in the test solution. If a positive color test is obtained, either in the solution or on the fabric, the suspect fabric is a good candidate for laboratory testing to confirm the presence of a narcotic substance.

b. Leach solution technique

1. Choose an area of the item so as to minimize potential damage to the article.
2. Stretch the fabric over the mouth of a small container. Slowly apply warm water to the fabric until 10-20 drops pass through the fabric into the container.
3. Test the collected water solution with Mayer's Reagent directly and/or follow the instructions below for the evaporation technique for beverages:

Beverages:

Liquid inside a liquor bottle suspected of containing cocaine or heroin cannot be safely or meaningfully tested with Marquis reagent. Attempts to apply the Marquis test to liquids are virtually certain to result in the dangerous spattering of the concentrated acid reagent, which cannot react properly with such solutions in any event. Attempts to test liquor samples for cocaine with cobalt thiocyanate reagents will probably yield ambiguous results in all but the most concentrated samples. The presence of alkaloid substances can be detected in liquor samples by use of the Mayer's reagent #1 in the ODV Narcotest Disposakit reagent list. If cocaine or opium alkaloids are present in reasonably high concentration, the liquor sample should produce a definite, discernible white precipitate with the Mayer's reagent. Any indication of such a positive reaction should, of course, be followed up by laboratory testing.

Two other techniques that may be useful for narcotics dissolved in beverages would be the following:

1. Evaporation technique
 - a. Place a small amount of the suspect liquid in a non-porous container.
 - b. Allow the liquid to evaporate to dryness.
 - c. Test the resulting residue as you would any other suspect residue.
2. Paper absorption technique
 - a. Apply a few drops of the suspect liquid to a small (1/2 inch square) piece of white tissue paper.

Guide for Application of ODV Narcotest Disposit* Kit*

Character of Substance	Possible Identity	Tests to Apply	Assessment of Results
Coarse or fine powder often with glittery crystalline appearance; lumps or rock-like material (possibly "crack" - a form of cocaine base); white, grey or yellowish in color	Cocaine; heroin; powdered amphetamine; barbiturate; hallucinogen	(1) Mayer's Reagent (ODV #1)	If a white to cream-colored gelatinous precipitate forms, the presence of one of the general alkaloids (or the amphetamines) is indicated; proceed to the test for opium alkaloids (ODV #2). If no precipitate forms, proceed to the test for barbiturates (ODV #5)
		(2) Marquis Reagent (ODV #2)	Violet to reddish-purple is indicative of the opium alkaloids. Orange indicates the presence of an amphetamine. If negative, try the tests for cocaine (ODV #4 and #13).
		(3) Cobalt Thiocyanate Reagent (ODV #4) or, for suspect cocaine base, Cocaine, Free-base ("Crack") Reagent (ODV #13)	Observe color formation after breaking first the ampule in the bottom of the tube and then the ampule in the paper cap. A blue precipitate remaining undissolved indicates the presence of cocaine.
		(4) Dille-Koppanyi Reagent (ODV #5)	A purple to reddish-violet color indicates the presence of a barbiturate. If negative, try the test for hallucinogens (ODV #7).
		(5) Modified Ehrlich's Reagent (ODV #7)	A slowly-developing purple color indicates the presence of LSD or other

TABLE I

Guide for Application of ODV Narcotest Disposables*

Character of Substance	Possible Identity	Tests to Apply	Assessment of Results
Tablets (must be crushed before testing) or capsules containing powder; tablets and powder generally white in color.	Amphetamine; barbiturate	(1) Mayer's Reagent (ODV #1)	A white to cream-colored gelatinous precipitate indicates the presence of the amphetamines (or the general alkaloids); proceed to the Marquis Reagent (ODV #2). If no precipitate forms, proceed to the test for barbiturates (ODV #5).
		(2) Marquis Reagent (ODV #2)	Orange indicates the presence of amphetamines.
		(3) Dille-Koppanyi Reagent (ODV #5)	Purple to reddish-violet indicates the presence of barbiturates.

* Becton-Dickinson recommends a similar polytesting procedure in the use of their Narcotics Identification System reagents. If you're using the B-D products, please refer to their instruction manual.

.JLE I

Guide for Application of ODV Narcotest Dispositakit*

<u>Character of Substance</u>	<u>Possible Identity</u>	<u>Tests to Apply</u>	<u>Assessment of Results</u>
Vegetable material, ground, or in natural condition; green, brownish-green or brown in color.	Marijuana, coca leaves	(1) KN Reagent (ODV #9)	Orange-red to very dark red in the <u>bottom</u> layer is indicative of the presence of marijuana.

Note: Field tests for cocaine (ODV #4 and #13) do not work on coca leaves.

DEPARTMENT
OF THE TREASURY
UNITED STATES
CUSTOMS SERVICE



ANNUAL REPORT OF WEIGHING EQUIPMENT

17,23, C.M.

TO: DISTRICT DIRECTOR	DISTRICT	POST	STATION	DATE	SCALE NO	OWNER SCALE LOCATION	MAKE AND TYPE	CAPACITY AND SMALLEST GRADUATION	MAXIMUM TEST LOAD USED	SENSITIVITY OF SR (Pounds)		CORNER TESTS (Soils/factory) (Unsoils/factory)	PHYSICAL CONDITION OF SCALE
										1000	100000		

REMARKS:

SUPERVISED BY.....
TITLE..... Customs 6033 (10-3-75)

new editions are obsolete

Notification to U.S. Attorney

File: ENF-8-07

Dear (United States Attorney's Name):

Re: Drug Evidence Destruction Notice

By authority of the United States Attorney General under Title 21, USC, Section 881(f)(2), notification is hereby given that for the case described herein, the amount of seized contraband drug exceeding the threshold amount (or, in the case of marijuana, the amount exceeding the representative sample), and its packaging, will be destroyed after 60 days from the date of this notice unless a written request for an exception to this destruction policy is received by this office prior to the expiration of the 60 day period. Any request for exception must be submitted in writing to:

(Name of Special Agent in Charge)
(Customs address, etc.)

[Customs File Number] [Customs Exhibit Number(s)] [Type of Drug]
[60 day deadline] [Amount of Drug Seized] [Amount to be Retained]
[US Attorney's Office Criminal Matter Number]
[Case Prosecutor's Number] [Customs Case Agent Name/Office]
[Name of Defendant/Subject Carried by Customs File]

Sincerely yours,

[Signature, Special Agent in Charge]

cc: U.S. Customs District Seized Property Custodian

CD 3290-001; OCT. 9, 1991

Appendix 10



DEPARTMENT OF THE TREASURY
UNITED STATES CUSTOMS SERVICE

**ORDER TO DESTROY AND RECORD OF DESTRUCTION OF FORFEITED,
ABANDONED, OR UNCLAIMED MERCHANDISE**

20-A, 20-B, 22, 19, C. M., Circular 587-74E1

ORDER TO DESTROY	
SEIZURE OR G. O. NO., ETC.	QUANTITY AND DESCRIPTION OF MERCHANDISE
METHOD OF DESTROYING	
SIGNATURE OF AUTHORIZING CUSTOMS OFFICER	DATE
RECORD OF DESTRUCTION	
SIGNATURE OF CUSTOMS OFFICER	DATE
WITNESS TO DESTRUCTION	WITNESS TO DESTRUCTION
LOCATION	METHOD OF DESTRUCTION

U.S. GPO: 1987-742-011/41100

(Previous editions are obsolete)

Customs Form 4613 (10-75)

Temporary Storage Specifications

Temporary Storage areas shall meet the following specifications:

Security filing cabinets:

- must be of a type sold for commercial or governmental use for the protection of valuable articles or records from theft; and,
- must be able to prevent penetration from the outside to gain access to the contents:
 - (a) for more than 30 minutes against surreptitious entry;
 - (b) for more than 10 minutes against forced entry;
 - (c) for more than 20 hours against lock manipulation;
 - (d) for more than 20 hours against radiological techniques.

Safes:

- must meet Federal Specification AA-F-363b for Class 5 cabinets.

Vaults:

- Door plus frame unit must meet Federal Specification AA-D-600B for Class 5 vault door; and
- Walls, floor, and roof must be composed of eight inches of cured concrete with steel reinforcing bars placed at six inches on-center, both horizontally and vertically. Reinforcing must consist of two layers of the above, each layer placed at least 1 - 1/2 inches inside the surface and staggered, such that both horizontal and vertical bar intersections occur at 3 inches on-center (as viewed at a 90 degree angle to the surface).

Storage areas/rooms:

- must meet in themselves the security standards set out in the Customs Physical Security Handbook 1400-02.

Security Services by Non-Customs Sources

Standard:

The security provided under this standard shall be provided through Customs-owned resources by Customs personnel, whenever possible. When it cannot be provided by Customs resources, it shall be provided by other U.S. government agencies under written agreement with Customs. When not available from other government agencies, it shall be obtained from state or local governments or from private sources under contract with Customs. The security standards prescribed in this directive shall be applied regardless of who provides the security services.

Security services include the rental or lending of storage rooms or buildings the furnishing of guard or patrol services; the operation, maintenance, or monitoring of alarm systems; or any other security means necessary to carry out this standard.

Specifications:

1. Services provided by other U.S. government agencies shall be accepted only under written agreement between the district director and the appropriate official of the cooperating agency which sets forth the responsibilities of each agency for operation and maintenance of the service and liabilities in case of default.

2. Services provided by state and local government or by private firms shall be undertaken only under legal contract, in which Customs must expect to pay for the service, signed by an authorized, certified Customs contracting officer. The contract shall set forth the responsibilities of the parties for the operation and the maintenance of the service and liabilities in case of default. The contract shall be so written that it is enforceable to the greatest possible extent through the payment of liquidated damages or other means which obviate the recourse to courts of law.

3. Agreements and contracts must contain a stipulation that personnel who will have access to storage areas, or who must have knowledge of the security procedures or protective devices of storage areas, must have received a prior investigation and clearance by the U.S. Customs Service before they will be permitted to participate in the security service for which they are sought or needed.

4. In no case will non-Customs personnel be permitted to handle seized drug evidence (other than in a capacity as acting Customs officer), nor will they be permitted in premises or

Permanent Storage Specifications

If a permanent storage area for seized drug evidence is constructed or redesignated within an existing Customs general storage facility, it must nevertheless meet the higher standards described herein. The permanent storage areas used to store seized drug evidence must meet the following specifications:

Construction:

Permanent storage facilities shall have masonry or reinforced concrete walls with concrete floors. Roofs and ceilings shall be constructed of fire-resistant materials which will provide a degree of security equal to or greater than that provided by windows and doors. The number of doors and windows shall be limited to the absolute minimum.

Windows:

The windows shall be protected with 9 gauge steel mesh with a 2 inch diamond grid secured to a steel frame securely attached to the building with fastenings inaccessible from the building exterior. Expanded metal or steel bars may be used instead of steel mesh if they provide the same or a higher degree of security.

Doors:

Doors will be constructed of sheet metal or equivalent material that make entry by force extremely difficult within the response time of guards or patrols to an alarm. All doors shall be equipped with deadlocking bars or bolts. Deadlocking bars shall be shielded from defeat from the exterior and drilled and pinned to their holding brackets. Door frames shall be fastened to the building in a manner that will prevent them from being separated from the casing. Door hinges will be of the fixed pin security type or its equivalent. Unless safety stud hinges are used, exposed hinge pins will be spot welded or otherwise secured to prevent removal. A high security padlock and hasp shall be used on the exterior of the principal door to the facility.

Safety:

The facility shall comply with all applicable fire and safety codes, shall be properly vented to evacuate narcotic fumes, and shall have a constant temperature and humidity level that will retard the deterioration of the seized drug evidence stored within. If the custodial officer's post is within the facility during working hours, the facility shall be heated and air-conditioned for his health and comfort.

**THE COMMISSIONER OF CUSTOMS**

WASHINGTON, D.C.

June 30, 1993

MEMORANDUM FOR: Assistant Commissioners
Regional Commissioners

FROM:

Commissioner *George M. Wine*

SUBJECT:

Firearms Accountability

As you may know, there are certain issues that are very important to me in the execution of our management responsibilities. One of these issues is building greater accountability for organizational performance and for the management of all resources. As we approach the time of year for performance evaluation under the merit pay system, I want to remind you to consider this aspect of your managers' performance very seriously.

In particular, in conjunction with a manager's responsibility for internal controls, I would like to emphasize accountability for weapons. Customs has come under a great deal of criticism for our Firearms Program, especially with respect to managerial accountability for weapons. In organizations where you have employees who are required to carry weapons, please ensure that managers understand and are evaluated on their responsibility to account for all firearms under their control.

With your assistance, I am confident that the program improvements we are implementing in this area will result in more effective management of firearms in the Customs Service.

Chairman PICKLE. Thank you, Mr. Lane.

Mr. Hensley, do you have a statement?

Mr. LANE. No, sir, I do not.

Mr. LANE. Mr. Chairman, I am the only one who has a statement. The other Customs officers are here to answer your specific questions.

Chairman PICKLE. Does that include Mr. Parker and Ms. Spero?

Mr. LANE. Yes, sir.

Ms. SPERO. Yes, sir.

Chairman PICKLE. All right. Mr. Lane, the part that bothers me more than anything else was that in 1989, when these errors or omissions or these acts of effectiveness were being reported, you wrote to this subcommittee that you have no knowledge that we have any major problems in the firearms area, as of June 1991. This was after the allegations had been made of all these inaccurate incidents going on. You replied to our committee that, to your knowledge as Commissioner, none of these things are major and you have no problems. Is that correct?

Mr. LANE. Yes, that is correct.

Chairman PICKLE. 1991. Now, a year later, you admit that you got 16 errors that are inaccurate and weak and should be changed, and now you admit to each one of them. Did all this happen in 1 year's time?

Mr. LANE. No, sir. I believe it happened over a period of years. As I outlined, we knew about the problems at least in 1988, but thinking about it, I think we probably knew about some of these things earlier than that, probably the mid-'80s.

I can see how you might not agree with our assessment of major problems. I guess, if you look in the context of other activities going on in Customs during that period that I briefly outlined, other problems that we had, no, I do not consider the status of the firearms program one of the major issues of the Customs Service.

I think other people could argue that. There are probably people in Customs that would argue that. I am just saying I do not see the firearms program as one of the major problems of the Customs Service.

We acknowledge that it is a problems. You see it as a problem. It is arguably a problem. The IG agrees with you.

If you look at just one thing, the firearms program in Customs, are there some problems within it that some could be categorized as major and some minor, yes, you would have to acknowledge that there is.

Chairman PICKLE. Mr. Lane, in your letter to this committee, you said, "No indication of major problems in this area has been reported to me during my tenure as Commissioner of Customs," and you further go on to point out that you have had seven different reviews of your Customs firearms program. You were telling me, "Do not worry. We know about it. We have already looked at this seven different times."

So you are saying very emphatically that you do not have a problem in this area?

Mr. LANE. I am saying——

Chairman PICKLE. You have even been telling our subcommittee——

Mr. LANE. I am saying now that we are taking ownership and responsibility for these programs, and we have a plan to fix them.

Chairman PICKLE. You do not say that. You just say that, "We have no problems, no indication of any problem," and you are almost saying to this committee, "Buzz off. Do not bother us about this. We know more about this than you do, and we do not have a problem down here." Is that an unfair assessment?

Mr. LANE. I would not characterize it as fair or unfair. I think that it is inaccurate. We are not telling you to buzz off. If you decide to hold a hearing, you believe there re major problems. We want to respond to them, and we are here to do that.

Chairman PICKLE. You are here to do it, Mr. Lane, but you and the Office of Effectiveness have been set up to make an investigation of this and have not done anything about it, and the IG came in, and they made 16 different recommendations. To our committee, it just sounds to me like——

Mr. LANE. OK. Let me try to answer your question in another way. I originally said if you looked at the firearms program in the context of other things going on, we would not consider that one of the major problems of the Customs Service.

If you look at the firearms program in itself, you could categorize problems within it. The most major problem as far as I would be concerned were that there was great leakage of guns from Customs custody into criminal hands. We know of no instances of that. We would consider that to be a major problem.

So I could stipulate that we can understand why people would think it is, but that was our assessment at the time.

Chairman PICKLE. Mr. Lane, you were at one time Acting Commissioner. You were Commissioner, and you have been the Assistant Deputy down there for some time, and you are saying to me you had no indication of anything major going on.

Are you saying to me that you have never had it reported from the field that these guns were being lost or they were being verified or there were some people who were taking them off? You did not know anything about that?

Mr. LANE. I knew in at least January of 1988 that there were some problems with it. I either asked for or agreed to a management assessment; that is, a review of the program by the Office of Internal Affairs. That office identified some problems with the program, including the Weapons Inventory Control System. I could outline what some of those——

Chairman PICKLE. If you got word from the WICS people and from your firearms office in Georgia and you were told that some of these guns were missing, you gave no indication to us that this was going on or that you knew about it. I am asking you: Did you know this was going on in the field?

Mr. LANE. Did I know that there were some weapons missing?

Chairman PICKLE. Yes. These various things that had been related by the witness who just preceded you, Mr. Humphreville, had that been reported to you or any of the Commissioners? Did you know this? I am asking you under oath here. Are you familiar with it?

Mr. LANE. I am not sure whether I was or not. I cannot say that.

I did ask for and got a management assessment on the firearms program, and I am not sure right now what prompted me to get that. It may have been someone asked me to do it or that I had heard about that.

Chairman PICKLE. Do you think that the field offices and NFPS office did not give you a full report? Did they make these reports to you?

Mr. LANE. No.

Chairman PICKLE. Are you saying no, you did not know about any of this going on in the field?

Mr. LANE. I am trying to think about what I did know about that, whether the field was reporting them to me, not routinely, I would say.

Chairman PICKLE. I am not trying to quiz you. The big question to me is this. Firearms are misplaced, a very natural sort of thing in many respects. Agents have been taking them off. Three hundred guns have disappeared. Some of your agents took the scopes to the car. It has been reported directly now to your internal director office down in the field. I am asking you: Did you know that was going on?

Mr. LANE. About 300 guns, every instance—I did not—I would not—it would not come to me about every instance.

Chairman PICKLE. Well, then you are saying that you did not know and now you said, "Well, I relatively knew about it." Now, what did you know about it? I am just trying to ascertain what has been reported to you as Commissioner in the head office. What do you know about what the field is saying?

Mr. LANE. What was reported to me were problems with our weapons accountability system. Now, that is what is appropriate to be reported to me. My responsibility would be seeing that these systems worked, and if they had failed, it would not be to go track down these 3 guns or those 20 guns. It would be to develop and ensure that there is a system to take care of it.

So one thing I would remember; that is, we had systems problems. One thing I would forget, the various instances of lost or missing guns.

Chairman PICKLE. Well, you have not answered my question.

Mr. LANE. I have tried.

Chairman PICKLE. My question to you is: Did you know that these acts of—

Mr. LANE. Of missing guns?

Chairman PICKLE [continuing]. Missing guns was taking place in the field?

Mr. LANE. I would say I do not know whether I knew or not. That is an honest answer. I am under oath. I do not know whether I knew or not.

Chairman PICKLE. But the reports had been made to you allegedly in writing, and you say you do not know anything about them?

Mr. LANE. Actual reports to me—

Chairman PICKLE. Yes.

Mr. LANE [continuing]. That these guns were—I do not know why they would come to me of a specific instance of that. Ordinarily, they would not be.

Chairman PICKLE. All of these recommendations that the field is supposed to be making, you do not review them? You do not know why you would look at them? You are saying they would not come to you?

Mr. LANE. That would come to the appropriate Assistant Commissioner.

Chairman PICKLE. But you say if these errors or these violations are taking place, they would not be reported to you?

Mr. LANE. Not routinely. If there was a missing gun, it would not routinely come to my attention.

Chairman PICKLE. I am not asking you routinely. Aside from all of these specific instances, I am just asking you: Do you know what is going on in the field?

Mr. LANE. Well, I know a lot of things that are going on in the field, Mr. Chairman. I do not know everything.

Chairman PICKLE. I would say to you then, as a personal opinion, you either knowingly knew what was going on in the field and you do not want to say it, or you just do not know what is taking place out there. It is one or the other. Either one is an act of misfeasance.

Now, it is not a matter of balancing the budget. I have to say, as an official just trying to review this case to try and get to the bottom of it, that somewhere between the field offices, the people in the field, the people who are blowing the whistle, you do not know what the other is doing.

Mr. LANE. I think I got the necessary information I needed from the people in the field and the people at headquarters to take action on these problems.

Chairman PICKLE. Let me ask you more specifically, and then I want to yield to some of the other members. What do you plan to do about getting your house in order now?

Mr. LANE. We have decided and determined to redesign the Weapons Inventory Control System. We are taking inventories of the weapons. We have established internal controls to ensure that all of our systems work, and we have transferred the program over to the Office of Enforcement. We have added more staff to the program, and we are doing management inspections, routinely checking on the adequacy of our system, and we have established the Office of Organizational Effectiveness as the office to have oversight to ensure that all these actions take place.

Chairman PICKLE. All right. Then you do plan to make the field managers accountable?

Mr. LANE. Yes. There is a memo that we will sign out to the field this week establishing that accountability.

Chairman PICKLE. What will happen to field managers if they do not carry out the orders you give them?

Mr. LANE. Well, in every case of that, one always has to look on a case-by-case basis, but we would take appropriate action up to and including discipline.

Chairman PICKLE. I am making a personal opinion now, but it looks to me like what you have done is promoted the people in the field instead of disciplining any of them. At least that is what has happened in the last 2 to 3 years.

You did fire Mr. Humphreville. Why did you fire—did you fire Mr. Humphreville?

Mr. LANE. No, sir. That action did not come up to my level.

Chairman PICKLE. I would not think so. I guess that must be in Mr. Parker's office. Then did he?

Mr. LANE. Well, I think it might be under Mr. Hensley.

Chairman PICKLE. Who fired Mr. Humphreville?

Mr. HENSLEY. Mr. Humphreville was actually not fired. He resigned from the Service. I can give you the details of the reasons, which were performance-based, why he was under disciplinary action.

During that process which began in 1988 and into 1989, the subject of actions dealing with his performance, we did propose to remove him from the Customs Service, an action which probably should be briefed to you privately—although I think staff is aware of it—is the actual conditions under which Mr. Humphreville resigned from the Service and subsequently obtained a retirement.

Chairman PICKLE. Then his action as a whistleblower had nothing to do with him being fired?

Mr. HENSLEY. That is correct.

Chairman PICKLE. He recited previously 10 or 15 different instances of things he had done, and nobody would pay any attention. Nobody would listen to him. Nobody reported it. You took neither action, or Mr. Parker did not take any action, and no action was taken up here. Is that correct?

Mr. HENSLEY. Mr. Chairman, I came on in June of 1990 in my present position. During that time period, there were investigations by the IA into Mr. Humphreville's allegations.

The allegations accusing Mr. Parker of misfeasance of appropriated equipment, et cetera, and the other actions taken by other employees was investigated. The report we got back from Internal Affairs was that those were unsubstantiated allegations.

Mr. Hancock?

Mr. HANCOCK. Mr. Chairman, would you yield on this one question?

Chairman PICKLE. Yes.

Mr. HANCOCK. You asked about the decision to terminate, and you say that Mr. Humphreville resigned, and, yet, in the court case here of Humphreville, the Department of the Treasury says, "The agency's final decision to terminate appellant was issued on May 15, 1991, by John E. Hensley, Assistant Commissioner." Now, that does not sound like a resignation to me.

Mr. HENSLEY. No, what I said, sir, was we had moved to remove him. We had started the process to remove him. During that process, it went before the Merit Systems Protection Board. At that time, there was a stay issued. At the time the stay was issued, Mr. Humphreville and the Customs Service entered into an agreement under which he resigned from the Service and later became a retired person.

Mr. HANCOCK. But you had made the decision to terminate if he had not negotiated—a nice word—resignation. In other words, if he had not resigned your decision, he had been informed of his decision to terminate.

Mr. HENSLEY. That is correct.

Mr. HANCOCK. You had told him you were going to terminate him?

Mr. HENSLEY. Absolutely.

Chairman PICKLE. The Court, though, has ruled that he should not have been removed and they, I presume, reinstated him. At least they ruled against your decision to fire him.

Mr. HENSLEY. That is not entirely correct, Mr. Chairman.

Chairman PICKLE. What happened?

Mr. HENSLEY. What happened was Mr. Humphreville filed an appeal for a stay. The stay was granted based on his petition. No hearing was ever held to show the Government side of the case or the evidence we possessed.

It was during that time period that we entered into the negotiated settlement with Mr. Humphreville.

Chairman PICKLE. I understand that he was assigned to different jobs and finally put off into one office by himself with no duties. In effect, it was just, I guess, he just said, "It is not worth it. I am going to withdraw."

Did you all assign him to meaningless tasks?

Mr. HENSLEY. The exact opposite was true, Mr. Chairman. He was given substantial tasks, and it was those tasks based on the performance evaluation that he could not perform. In fact, he was responsible for the inventory.

Chairman PICKLE. But if he could not perform it, why, then, did the merit judge of the board, decide that he had been improperly dismissed?

Mr. HENSLEY. That was not the issue before the board. He claimed a whistleblower status and retaliation. That was the issue that they looked at. Retaliation had something to do with his removal.

Chairman PICKLE. And you are saying that the whistleblowing actions of Mr. Humphreville had nothing to do with his separation of the Service?

Mr. HENSLEY. That is what I am saying, sir. The hearing was not ever held on the matter. The merits were never brought before the MSPB. It was only his petition that was brought forward.

Chairman PICKLE. Then, in a minute, I will ask you to respond to some of the allegations Mr. Humphreville has made then, because it seems to me like there are charges, a dozen charges of strong actions, recommendations that you or Mr. Parker never responded to.

Mr. Parker, were you Mr. Humphreville's superior?

Mr. PARKER. Yes, sir, I was.

Chairman PICKLE. Was he performing his job?

Mr. PARKER. Mr. Pickle, I have weighed in advance the answer to that question and the possibility of that question being proposed to me, and, Mr. Pickle, I prefer not to say anything relative to Mr. Humphreville's past performance for this reason—two reasons.

This employee has undergone an extreme amount of stress, and I recognize that. That would be stressful for anyone. And on moral grounds, I do not want to contribute to that any further.

Second, we entered into a negotiated settlement agreement with this former employee, and part of that negotiated settlement agreement was that we would not publish or discuss his past perform-

ance record. I would prefer to stick with that agreement, because even though I was not a signatory to it, I believe in it.

So, Mr. Pickle, unless—Mr. Chairman, unless you tell me that I have to answer, I would prefer not to answer that question.

Chairman PICKLE. You are asking me not to propose a question because it might reflect on your conversation or agreement with Mr. Humphreville?

Mr. PARKER. No, sir. I am asking you not to ask that question—

Chairman PICKLE. And I do not believe this committee has the right or should have the right to withhold questions based on your feelings of what you prefer or not prefer.

Mr. PARKER. Well, Mr. Chairman—

Chairman PICKLE. So we will ask you questions. Let me ask you, specifically, some of these questions. Did you ever take any telescopic sights of any type from the NFPS facilities at Fort Benning for any reason?

Mr. PARKER. For any reason? I have checked out a telescopic sight for use on a competition weapon, yes, sir.

Chairman PICKLE. When you took them out allegedly and took them to your car, did you sign out for them—

Mr. PARKER. Yes, sir.

Chairman PICKLE. [continuing]. That you were taking them to your car and had made a full record of it?

Mr. PARKER. Yes, sir.

Chairman PICKLE. Has that ever been shown or known to anybody?

Mr. PARKER. Yes, sir.

Chairman PICKLE. To whom?

Mr. PARKER. To the Internal Affairs agents who asked me that same question.

Chairman PICKLE. Who is the Internal Affairs agent then? Mr. Hensley?

Mr. PARKER. No. The Internal Affairs agents were Mr. Reed and Mr. Greenstein from the Miami Office of Internal Affairs.

Chairman PICKLE. You are saying that you took them out. Why did you take them off?

Mr. PARKER. Mr. Chairman, we removed all of the telescopic sights from seized weapons that came in so that we could put them in a separate lot for possible sale exchange purposes. They were not kept on the weapons because, if they were kept on the weapons, they accrued no more value to the Government than the weapon by itself.

Chairman PICKLE. How many scopes did you take with you?

Mr. PARKER. I have checked out two rifle scopes in my time at the NFPS.

Chairman PICKLE. And they were both reported?

Mr. PARKER. Yes, sir. They are on my property records at NFPS.

Chairman PICKLE. Why did you take them? Why did not you send them through channels to whoever is going to make the changes to them?

Mr. PARKER. I am sorry. I do not think I understand the question.

Chairman PICKLE. Why did you take them in your possession and put them in your car?

Mr. PARKER. Because I checked them out to put on weapons for competition.

Chairman PICKLE. I do not understand the procedure, but is that a proper procedure?

Mr. PARKER. Yes, sir. That is proper procedure.

Chairman PICKLE. All right. Were you aware at the time that Mark Humphreville had alleged to Internal Affairs that you were taking the scopes?

Mr. PARKER. I only knew that allegation when it was asked of me by the Internal Affairs agents in, I believe it was, June of 1990.

Chairman PICKLE. You specifically, though, did take the scopes, but that you signed out for them when you took them out?

Mr. PARKER. Yes, sir.

Chairman PICKLE. In due time. Not afterward, but before you—

Mr. PARKER. No, sir. At the time that I—any piece of equipment that I receive that is Government property, we put that on our personal property record, our nondisposable property records.

Chairman PICKLE. Did you ever bring a privately owned M1 rifle to work with you?

Mr. PARKER. Yes, sir.

Chairman PICKLE. Who did the rifle belong to?

Mr. PARKER. It belonged to a friend of mine, and I was thinking about buying that rifle.

Chairman PICKLE. That is why you brought it or he brought it to work with you?

Mr. PARKER. Yes, sir.

Chairman PICKLE. Did you ask your staff to check out the rifle?

Mr. PARKER. I asked the gunsmiths to look it over and give me their opinion of it.

Chairman PICKLE. What did they do?

Mr. PARKER. I do not—well, I presume they did that. They told me they thought it was a good piece.

Chairman PICKLE. All right. Now, at the time and the same similar question, did you know that Mr. Humphreville had reported that activity to Customs Internal Affairs?

Mr. PARKER. Not until I was asked that question by the Office of Internal Affairs from Miami.

Chairman PICKLE. The answer was pretty much the same as the telescopic scope?

Mr. PARKER. Yes, sir.

Chairman PICKLE. All right. Were you aware that your former deputy, Dick Conger, was shipping seized ammunition to his cabin in Wyoming?

Mr. PARKER. No, sir, I was not. I learned about that allegation, once again, during the investigation when I was asked about those other two items.

Chairman PICKLE. Did anyone ever tell you that a sawed-off shotgun barrel from Customs inventory had been installed by your staff on your former deputy, Conger's personal shotgun?

Mr. PARKER. Yes, sir.

Chairman PICKLE. Well, how did you feel about it?

Mr. PARKER. First of all, Mr. Chairman, the firearm in question was a Model 870 shotgun. Under the policy, the firearms policy, just like several other types of weapons, an agent may use a personally owned shotgun if that shotgun is of the same make and model as our issue weapons.

Chairman PICKLE. What happened to the person who shipped the ammunition to Wyoming?

Mr. HENSLEY. I can answer that.

Mr. PARKER. I will let Mr. Hensley answer that.

Mr. HENSLEY. Mr. Chairman, it was investigated. In fact, the Internal Affairs agents even did a search of the property in Wyoming where the ranch is located. In fact, they also checked all of the shipping records. That was found not to be a substantiated allegation.

He did, in fact, ship some ammunition to a former agent in the Florida area, but there was no shipment of ammunition to Wyoming to a ranch. There was another shipment of his own ammunition, which he had receipts for, to a sheriff that was an associate of his.

Within that shipment of ammunition, which were several hundred rounds, were around 50 rounds of Government ammunition, which were commingled in this ammunition. Those were the two different incidents that Mr. Conger was—

Chairman PICKLE. You are saying then that no shipment of ammunition was sent to the ranch in Wyoming or to Wyoming?

Mr. HENSLEY. That is what the investigation showed, Mr. Chairman.

Chairman PICKLE. I am asking you.

Mr. HENSLEY. I have no evidence that shows that any ammunition was sent to his ranch in Wyoming, none whatsoever.

Chairman PICKLE. Was the sheriff in Wyoming that you had reference to?

Mr. HENSLEY. I do not know where the sheriff is, looking at this paper. I believe it was in Wyoming, however.

Chairman PICKLE. How much was sent to the sheriff?

Mr. HENSLEY. Of Government ammunition, it was 56 rounds, 56 different bullets.

Chairman PICKLE. All right. Then it was not the 80, whatever, rounds I had mentioned earlier, but it was only 56?

Mr. HENSLEY. Fifty-six separate cartridges.

Chairman PICKLE. Am I to assume then that the rounds that were sent to the sheriff would accomplish the same purpose if you sent the ammunition directly to the ranch?

Mr. HENSLEY. I would think not. The ammunition that he shipped was personally purchased by him, shipped under his own, I guess, bearing of cost in the personal post, and the only ammunition that was shipped that belonged to the Government was 56 rounds.

Chairman PICKLE. We had testimony that this was shipped out to be used for target practice, rifle practice.

Mr. HENSLEY. That was the ammunition to Florida, Mr. Chairman.

Chairman PICKLE. That was ammunition when?

Mr. HENSLEY. The ammunition that was shipped to Florida to the former agents and was to be used for target practice.

Chairman PICKLE. All right. Well, I am thinking about only Wyoming. I did not know that you had done this to Florida, too.

How much was shipped to Florida, just for the record?

Mr. HENSLEY. It was one canister, and I am not sure how many rounds are in the canister.

Mr. PARKER. Two 800-round canisters.

Mr. HENSLEY. Two 800-round canisters.

Chairman PICKLE. All right. These do not sound like big rounds, but the fact it was shipped—now, who shipped them, and what has happened to that person?

Mr. HENSLEY. The individual that shipped the rounds was Mr. Conger. He was placed on suspension without pay for 3 days. He was given a decision of reprimand letter. He was not promoted, although his position was raised in stature where he should have been promoted, and rather than stay at the facility, we gave him a choice of locations. He gave us a list back rating three places he wished to go. We sent him to the last of the three, which was Chicago, Ill.

Chairman PICKLE. Let me yield now to Mr. Hancock for any questions he has.

Mr. Hancock?

Mr. HANCOCK. This investigation, evidently, was initiated starting about 1990. I think that is correct. Then there was a reply in June 1, 1991, that says no indication of major problems in areas have been reported. I do not know exactly what you mean by major.

The report here, there is a letter dated September 28, 1990 that lists the WICS record system is incomplete, inaccurate, does not provide an audit trail of Customs, and so on and so forth. We have already determined earlier in this hearing that certification by Customs employees does not necessarily mean that it is true, and I think that was pretty obvious.

I am still wondering, Mr. Lane. You made the statement that there was no record, had never been any record of any crime being committed by a Customs weapon. What about the weapons that are certified as being destroyed, that you do not really know whether they were destroyed or not, except that you have an employee that signed a statement that they had been destroyed? How can you say that maybe confiscated weapons that were supposed to have been destroyed, if not on the market right now, are not out there? Because all you have is an employee certification that they were destroyed.

Mr. LANE. Sir, I said that we had no knowledge of any lost, stolen, or unaccounted for weapon being used in a violent crime. I will stipulate that; that it could have happened that we did not know about it.

Mr. HANCOCK. In other words, you are not real sure that the—

Mr. LANE. I believe that that has never happened.

Mr. HANCOCK. The weapons that are certified as being destroyed that, in fact, were not destroyed, there could be lots of them out there. I mean, would you agree with that?

Mr. LANE. There could be some out there. I would defer to Mr. Parker to clarify that.

Mr. PARKER. Mr. Hancock, the IG's recommendations on our certification of destruction related primarily to our separation of duties between individuals, so that the possibility of diversion was minimized.

There has not been any evidence in any investigation or audit that I know of where any of the weapons that allegedly have been destroyed, or my record had been destroyed, turned up somewhere else other than an exchange sale, where we had one instance of one firearm being in both places.

Now, I do not have a ready answer for you, Mr. Hancock, why that occurred, but I can tell you that there have been thousands destroyed, and we have no record of any of those ever coming up in a crime or potentially diverted.

Mr. HANCOCK. That is if, in fact, the records were accurate, and we hear that our computer records are not necessarily accurate; therefore, the serial numbers could be inaccurate. So the serial numbers of the weapons that were supposed to have been destroyed might not be the serial numbers on those weapons that are destroyed. You do not really know, in other words, whether these weapons are being—whether any weapons that, if certified, have been destroyed and truly were not destroyed. There is no way for you to certify or to verify.

Mr. PARKER. I can only go by the destruct records. Yes, sir.

Now, as far as the weapons inventory control system records, the IG's random sampling extrapolated a potential of 47 guns. That represents less than one quarter of 1 percent of all the firearms that were in the Customs inventory.

So that means, in my way of thinking, that we have a 99.75 percent accuracy in the accountability of our firearms.

Mr. HANCOCK. According to the IG report, it just mentioned that they found 800 weapons that they did not know where they were located. You know, I still have that question of why Customs needs 21,000 and some odd weapons. That sounds like an awful lot of weapons to carry in inventory, since if you needed them on an emergency basis, why, you could probably go get them pretty quick without just the inventory in a certain place to try to keep counting them.

Let me ask you a question, and this is kind of off the subject, except it is on the subject. Mr. Lane, how many pounds of cocaine did you say that Customs confiscates in a year's time? I think it was in your testimony.

Mr. LANE. Well, I said over a period of years from about 1980 to 1992, we had seized approximately 1 million pounds. Last year, I think we seized about 240,000. That would be our top year. The year before that around 200,000. So I am pretty sure we are at the million-pound mark now.

Mr. HANCOCK. That is not serially number marked, is it?

Mr. LANE. No, sir.

Mr. HANCOCK. How do you account for that? You cannot account for serially marked guns. How can you account for little plastic bags of cocaine?

Mr. LANE. Well, we do have a system for that, and it is accounted for, and we work with the Drug Enforcement Administration on that.

Mr. HANCOCK. Well, here again, I guess you get an employee to certify that.

Mr. LANE. That is not to say that there have not been some cases of missing narcotics as well. You are right.

Mr. HANCOCK. But you are telling me that—OK. I just thought I would throw that out. I am still having trouble with the fact that this investigation was initiated in 1990, a report in 1991, and then we come up here with a report dated February 22, 1993, that said there had not been any change for 3 years.

I would think, Mr. Lane, that in your position as Commissioner, knowing that this investigation had been initiated, you would have asked some questions down the line. What are we doing?

Now, you say in 1991 that there was not any particular problem, but you knew this was an ongoing investigation. You knew that in 1991, 1992 that the inspector general was down there taking a look, and I assume that you knew that. Did you not? Did you not know that he was down there taking a look?

Mr. LANE. In 1990, January of 1990, I believe there was an IG audit survey. My understanding was the IG at that time had decided that an audit was not required.

Mr. HENSLEY. That is correct.

Mr. LANE. OK. Staff is verifying there that the IG decided at that time an audit was not required. I assume, and I guess perhaps incorrectly, that they thought that we were taking the appropriate corrective actions and possibly, in their own view, did not see major problems.

As a result of that, they made some recommendations. We took action on those recommendations.

Mr. HANCOCK. And you are taking action now. Is that correct?

Mr. LANE. Yes, sir.

Mr. HANCOCK. On this report?

Mr. LANE. Yes, on the new IG report. We are not disputing those findings and recommendations, and we are taking action on them.

Mr. HANCOCK. Is it also not true then if, in fact, this is accurate, that Mr. Humphreville's charges had to be accurate, also?

Mr. LANE. I am not very familiar with the charges that Mr. Humphreville made. I really could not say.

Mr. HANCOCK. Well, it would appear to me that, if this report from the IG was accurate, then the whistleblower was accurate in some of the statements that he made. Otherwise, somebody has to be wrong. This verifies that what he said was correct.

Mr. LANE. I would like to make reference to a report done by the inspector general just recently on allegations made by committee staff or passed to the IG from committee staff.

I understand there are about 16, fully reviewed by the inspector general. I would assume some of these came from Mark Humphreville and other employees. A lot of them were found to have no basis in fact or little basis in fact or that customs had made the corrective action or that there was another explanation.

I am certain that some of the things that these employees against whom disciplinary actions were taken were found to be

true; that we needed to take correction on and that we did. And others, I would be just as certain have been found out by the inspector general to have no basis in fact. So that is a February 22 report on those allegations, and I guess it is a mixed bag. But I think, for the most part, it finds generally no misconduct on the part of Customs managers.

Mr. HANCOCK. I have experience, quite frankly, with the way the Service—not just the Customs Service, but the way the employee practices are within the Federal Government, which we are all familiar with—quite frankly, any time anybody starts coming forward—now, you could have some guy that has a mental problem, and I could not argue with that. But any time anybody starts doing what Mr. Humphreville did, he is taking his career in his own hands, and you kind of have a tendency to think that this guy—I do, anyway—that he has to recognize that, because I have had too many personal reports from people that have said this is going on, and I wish you could do something about it.

I have said, "Well, look, you give me the information," and I have to have it documented. I have to have a deposition. I have to have it signed. You give me the information. They say, "Well, no, I am not willing to do that."

I have a tendency, frankly, to believe the whistleblower more than I do the people that are trying to defend it, because they are laying their career on the line when they blow the whistle.

I am not accusing anybody of—well, yes, I guess I am. I guess you could accuse some people of trying to—I think they call it COA. I think we get a lot of that in a lot of areas, not just in Government.

It looks to me, frankly, that on the basis, Mr. Chairman, of what we are hearing here, I am hoping that following this hearing and this investigation that we are going to see some major changes and some reaction someplace.

I also would be interested in knowing how you go about inventory and keeping track of the cocaine and the drugs that you have, because if you cannot keep track of serially numbered weapons, I do not see how you could keep track of packets of drugs.

Thank you, Mr. Chairman.

Chairman PICKLE. Thank you, Mr. Hancock.

Gentlemen, Mr. Humphreville made several charges. I will specify two or three of them, particularly about you, Mr. Parker. You indicate that he was not doing good work. It was not reliable work. He was put on notice, and, finally, you had to discipline in some way or another, but he resigned by his own choice. Let's assume that took place.

The allegation he has made, though—and every one of them had been verified by the IG and very little difference in his allegations and the recommendations you are making. So, really, we are holding a hearing now with respect to the IG's report and his audit, but it is the same thing that Mr. Humphreville was alleging. So I do not say that he was making wild charges, because most of these things have been verified.

Second, I am trying to find out what did you know, Mr. Lane, and when did you know it? What did Washington know, and when did you know it?

You have wiggled, and you have not given me clear answers, and you say "not routinely," "not major," and "we are doing great works in the other fields," and you are. But you indicate that you really do not know anything about that. So you were not informed.

Let me start off by saying to you, Mr. Parker, here is what Mr. Humphreville said. He said: "Mr. Parker was involved in procurement fraud in Customs' 9 and 11 pistol award." That is not "I think" or "I felt," but he just makes a flat charge that you were involved in procurement fraud. I do not know whether that is true or not, but we are going to look into it further for your information.

He also said that he saw Mr. Parker remove rifle scopes from the weapons pool, and "I verified that he had retained these and not turned them into the armory gunsmith, but they were turned in months later when the investigation started." That is a strong charge. Is that true or not?

"I reported to Mr. Parker and Mr. Pendleton in the branches of NFPS for rigging weapons destruction," and on 10 different specifications where he had told somebody this was going on, and nothing was done about it.

Now that leaves me with this question. Who is reporting these allegations, which have been proved to be true in essence at least, at least for lack of control, and who has reported that to Mr. Lane?

Mr. Lane testifies today under oath that he did not know anything about this going on in the field, not very much, and, yet, to specific questions they have asked you, you have said, "Well, I knew a little something about it."

Well, I do not know how much you knew or how much you were supposed to know, but it does not indicate to me like reports were being made to you. At least you are saying under oath, you did not get these reports from the field, from Mr. Hensley or from Mr. Parker.

If you or any of the commissioners down there did not know about it, then I cannot say we could altogether hold you responsible except for the overall system of accountability.

But the question is: Did you know anything about it? So you said, "No, I did not know anything about it." I find that kind of difficult to understand that that would be taking place on an issue this strong, subject to national publicity, and you would not know anything about it.

So the question to me looks like: Who is telling you what is taking place? I guess the first person, who would be making these allegations or making recommendations to make you familiar with it, would be Mr. Parker. Mr. Parker is in charge, and he ought to be telling what is going on, and you ought to know, it seems to me, what is taking place.

Mr. Parker gives this to Mr. Hensley. Next, Mr. Hensley does not tell you anything.

Now, Mr. Hensley, if we find in the record that you did or did not, then it would seem to me like you are not telling the truth. Did you ever tell Mr. Lane all of these violations have taken place that are being alleged down in that area?

Mr. HENSLEY. Mr. Chairman, first of all, I checked our records in the Office of Enforcement. Mr. Humphreville—and I will qualify this, because I did not come on the scene until this was well on the

way in terms of his actions, but from the time that I was in the office, Mr. Humphreville never spoke to me nor communicated to me, nor could I find a record of a communication to the Assistant Commissioner for Enforcement on his allegations.

Chairman PICKLE. Whether he told you specifically about these, you knew the allegations were there. The person before you in your office, did you all ever report to Mr. Lane or the Commissioner up here that this was taking place and these violations were occurring?

Mr. HENSLEY. Mr. Chairman, what I reported to Mr. Lane was what was told to me, and that was there was a systems problem; that the accountability problem was under review; that there were problems with the records; and that guns were not routinely recorded in the system properly.

Chairman PICKLE. Then you are telling Mr. Lane that there is no problem here, and everything is in order.

Mr. HENSLEY. No, sir, I am not. I am saying that what was reported—

Chairman PICKLE. If you did not feel that, then you ought to report to Mr. Lane that we have serious and major problems here, but you did not report that.

Mr. HENSLEY. I reported what I just told you, sir; that we had problems with the systems, with the recording mechanisms, and tracking the guns. That was what was told to me.

Chairman PICKLE. When you told him that, that prompted Mr. Lane then to reply to me that there were no major problems, and for my information, he wanted to know that you have conducted, in the last 3 years, seven different investigations on this program.

So you told him there were no major problems. So he reports it as no major problems. Yet, within the year's time, the IG has gone in and said, "You have a major problem in 16 areas."

Now, it disturbs me that you either did not know or are not being forthright with this committee of what is going on.

Mr. HENSLEY. Mr. Chairman, I would say that, during the time period that we are talking about, we worked continuously with the IG on these problems. We worked with them from all through 1991, in late 1990, and with the Internal Affairs Division.

There was a WICS and weapons task force formed under Mr. Lane's aegis that we worked on continuously. I have a person reporting to me regularly on the—you could say the progress.

Chairman PICKLE. Then, in your reports to Mr. Lane, you just said, "We have problems in inventory. We have to get a new system, and we are working on it." You made that kind of report to him.

Mr. HENSLEY. Yes, sir.

Chairman PICKLE. And Mr. Lane is saying he never heard about Mr. Humphreville or all of these allegations that are taking place.

You are saying, Mr. Lane, that you never heard of these allegations at all?

Mr. LANE. Which allegations?

Chairman PICKLE. The ones that Mr. Humphreville is saying, the ones we are saying that are taking place. These specific instances, at least about 10 instances, you did not know that was going on? Nobody had reported it to you?

Mr. LANE. First of all, I have not lied about anything. I am telling the truth here, and all of these people are telling the truth.

I may have known about some of these allegations, not knowing they were from Mark Humphreville. I do not know Mark Humphreville. I do not know that I have ever met him.

A number of allegations here have been made. Some of them have been looked into by the IG and found to be baseless. You have talked about this Conger case with the ammunition. The IG's report says this, "Our review of the investigative reports did not indicate that Customs management took inappropriate action based on the results of the investigation." You make reference to these illegal procurement processes.

IG's report, "This issue involves potential contracting irregularities and is not a firearms accountability problem." Therefore, we did not pursue this as part of our audit of U.S. Customs' firearms accountability. However, we are currently conducting an audit of contract award practices at several Treasury bureaus, including Customs. We are currently evaluating this issue as part of that audit.

Chairman PICKLE. Mr. Lane, you may not have known about some of these, and the shipping of ammunition to Wyoming may have been minimized by a shipment to a sheriff and actually a sheriff in Wyoming. I do not know which one it is, Miami or Florida. It could have been either one about that. I am glad to get that straight for the record.

I am talking about, overall, these main allegations. Did you know about the Green guns, Mr. Lane?

Mr. LANE. I did know about the Green guns.

Chairman PICKLE. Would you consider that a violation and disregard of Customs rules and officials?

Mr. LANE. I do not know if there was a violation or not. If there was, I considered it to be some sort of violation.

Chairman PICKLE. Mr. Hensley, you can answer for him. You seem like you are trying to tell him how to answer that. You respond. Did you know about the Green guns?

Mr. HENSLEY. I only know about the allegation. I do not know about the outcome of the investigation.

I knew in June of 1991 that there was an allegation of some missing guns. That was turned over to the IG. I have not been given the report, since it is not in my chain of command.

Chairman PICKLE. Mr. Parker, do you know about the Green guns?

Mr. PARKER. I learned about it, sir, from your subcommittee.

Chairman PICKLE. It seems to me like that is a case where several guns were set aside. In that instance and in several other instances, a lot of guns suddenly were turned back in after we started this investigation. Is that correct?

Mr. HENSLEY. Yes, sir, it is.

Chairman PICKLE. Then does that indicate to you that violations were taking place in the field?

Mr. HENSLEY. I can only say that there were some guns turned in. Again, I would reiterate that, since I do not have the supervisory authority over Mr. Green nor did I see the report, I am not

sure in what order actions occurred. I can only say that the guns were fully turned in by Mr. Green.

Chairman PICKLE. Mr. Lane, is it true that you called Bill Green after you got my last year's letter and you told Mr. Green to get the guns back to headquarters and they showed up a few days later? Is that correct?

Mr. LANE. I am pretty sure at some point I did call Green to say, "If you have some guns, get them back in."

Chairman PICKLE. Then you knew about the Green guns and you know that—

Mr. LANE. John just wrote me a note that I knew this in June of 1991. I am sure that, if I called them, I did it soon after I heard about it. I would assume that the source of that was this committee, and I would further assume that what you wanted to achieve there was get the guns back in the inventory, which you did.

Chairman PICKLE. I do not believe that he was with the Service at the time.

Mr. LANE. He is still with the Service.

Chairman PICKLE. He is still with the Service now?

Mr. LANE. Yes. Yes, sir.

Chairman PICKLE. For taking these guns, was he disciplined?

Mr. LANE. I think there is a discipline case going on right at this time on this matter.

Chairman PICKLE. If it is, I never heard of it.

Do we know anything about a discipline case?

Yes, my staff says that you are telling the truth.

Mr. LANE. Good. Thank you.

Chairman PICKLE. I do not think I will pursue this any further at this point. You have given your statement and your answers. I do not think Mr. Lane knew anything about it. Mr. Hensley had not been there very long, and he only reported what he heard. Mr. Parker had not responded to these specific allegations. But I do not think any information is coming to you, and what is coming to you, Mr. Lane, I do not believe you know that much about it, and I do not know what the Office of Effectiveness is doing over there, if anything.

Do you want to say anything before we break this up, Ms. Spero?

Ms. SPERO. I am in a new office, which was formed as a result of the Blue Ribbon Panel, and started in April of 1992. As far as familiarity with the firearms issues, I really only know what I see in the two documents.

Chairman PICKLE. You only know what you see?

Ms. SPERO. With the two documents. My most current familiarity is with the two documents from the inspector general. One is a set of responses to specific allegations, and one is the recent audit.

But I can mention that our office is organized, so that we do provide a framework, but I think it is an improved framework on managing allegations and dealing with whistleblowers' allegations of retaliation.

As you probably know, this office was set up specifically to respond to those kinds of problems in the Customs Service, and if we have whistleblowers at the current time, they are eligible to come to the associate commissioner and to file their allegations of retaliation with us.

Chairman PICKLE. I am glad to know what your functions are and how you view these things.

I guess I would ask each of you to provide past IA reports on to this committee about the scopes, about the M1 rifle, the ammunition, and any other investigations involving Parker, Conger, Penleton, and Humphreville.

Surely, you will have some other information, and I would want you to give me your IA reports about those instances.

We have held a long hearing on the commandeering of some guns and rifles and shotguns; repairs; Lugars lost and found; guns reported gone and then they show back up. All of this is going on, and while it is not a matter of fixing the national deficit and should not surely affect the good work that you are doing in a lot of other areas in Customs, at the same time, the record shows that a great deal of improvement must be made.

While you are trying to defend what you have done, the cold fact of the matter is that specific recommendations now have been made, and we may get a look into it further, and you have agreed that they should be made.

We are going to assume that this will be done and done quickly, and they will be done. On your schedule that you have outlined, you can do it. We are going to be out in the field looking at some of these things to verify what has been said today and what has been testified to and try to get further action.

We are not trying to change the direction of Government by this program. We are not alleging, as you proudly said two or three times a day, that you do not know of any instance where any of these weapons have ever been used in a commission of a crime, and that is good. That is not the issue. They could be. If you got hundreds of guns out there that have not been properly audited, then the guns could not be followed. We do not know whether they fall in other people's hands. We may try to look into that further.

But that is not the issue. The issue is: Do you know where your guns are, who has them, and who controls them? The Government is entitled to know that. If you in Customs are in charge of this, this agency, and are not running a good program, then the whole thing is subject to being charged with carrying down or posting weapons on somebody as evidence or any number of violations, and this gets to be a very serious question.

Whether you call it major, serious or not, the whole thing has to be corrected, and I think now this subcommittee will give you our cooperation. We want you to give us cooperation to see that this thing is corrected as soon as we can.

Do any of you have any other statements, any other members?

[No response.]

If not, then the committee will be adjourned.

[Whereupon, at 5:12 p.m., the hearing was adjourned.]

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